

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7505

In Re: WILLIAM WISE MURRAY,

Petitioner.

On Petition for Writ of Mandamus. (CR-93-470)

Submitted: November 5, 2002

Decided: February 10, 2003

Before WIDENER, WILLIAMS, and MICHAEL, Circuit Judges.

Petition denied by unpublished per curiam opinion.

William Wise Murray, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

William Wise Murray petitions for a writ of mandamus. He seeks an order for immediate release from confinement on the ground that the government failed to prove at trial that he used a sawed-off shotgun during the commission of an armed robbery.

Mandamus relief is available only when the petitioner has a clear right to the relief sought. See In re First Fed. Sav. & Loan Assn., 860 F.2d 135, 138 (4th Cir. 1988). Further, mandamus is a drastic remedy and should only be used in extraordinary circumstances. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). Mandamus may not be used as a substitute for appeal. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

The relief sought by Murray is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED