

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6043

In Re: MICHAEL MCEVILY,

Petitioner.

On Petition for Writ to Certify Question of Law.

Submitted: February 6, 2003

Decided: February 13, 2003

Before WILKINS, MICHAEL, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael McEvily, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Michael McEvily filed a petition seeking review of Va. Code Ann. § 18.2-104 (2002) under the All Writs Act, 28 U.S.C. § 1361 (2000), and an injunction against future enforcement of the statute. McEvily asserts that the statute is ambiguous and therefore unconstitutional. We decline to exercise jurisdiction over McEvily's petition.

The All Writs Act vests all statutorily created federal courts, including this court, with authority to issue "all writs necessary or appropriate in aid of their respective jurisdictions." See 28 U.S.C. § 1651 (2000). Injunctive relief under the All Writs Act, however, is available "only in the most critical and exigent circumstances . . . if the legal rights at issue are indisputably clear." Brown v. Gilmore, 533 U.S. 1301, 1303 (2001) (Rehnquist, C.J., in chambers) (internal citations and quotation marks omitted). We conclude that McEvily's petition does not satisfy this standard. Moreover, McEvily asserts that he has challenged the constitutionality of the statute in question in a petition for a writ of habeas corpus under 28 U.S.C. § 2254 (2000) that is pending in the district court. Initial review of the statute in question and development of the record are appropriately conducted by the district court. If McEvily fails to obtain the relief he seeks in the district court, he may assert his claim on appeal to this court.

Accordingly, although we grant McEvily's motion to proceed in forma pauperis, we dismiss his petition. We dispense with oral argument because the facts and legal issues are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED