

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6059

In Re: PAUL GRAHAM,

Petitioner.

On Petition for Writ of Mandamus. (CA-02-3580)

Submitted: May 1, 2003

Decided: June 5, 2003

Before NIEMEYER, MOTZ, and TRAXLER, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Paul Graham, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Paul Graham has filed a petition for a writ of mandamus seeking to have this court compel the district court to grant his motion to amend his complaint in a 42 U.S.C. § 1983 (2000) action that the district court has since closed by entering final judgment in favor of the defendant.

Mandamus is a drastic remedy and should only be used in extraordinary situations. 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 relief is only available when there are no other means by which the relief sought could be granted, In re Beard, 811 F.2d 818, 826 (4th Cir. 1987), and may not be used as a substitute for appeal. In re Catawba Indian Tribe, 973 F.2d 1133, 1135 (4th Cir. 1992). The party seeking prohibition or mandamus relief carries the heavy burden of showing that he has no other adequate means to attain the relief he desires and that his entitlement to such relief is clear and indisputable. Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980).

Graham fails to make such a showing because mandamus relief may not be used as a substitute for appeal. Because Graham may challenge the district court's adverse decision on appeal, we deny Graham's petition for a writ of mandamus. We grant leave to proceed in forma pauperis in this Court. 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