

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6192

In Re: JERMAINE JERRELL SIMS,

Petitioner.

On Petition for Writ of Mandamus. (CR-98-45)

Submitted: February 25, 2004

Decided: March 25, 2004

Before WILKINSON, MICHAEL, and KING, Circuit Judges.

Petition dismissed by unpublished per curiam opinion.

Jermaine Jerrell Sims, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jermaine Jerrell Sims petitions for a writ of mandamus. He seeks an order setting aside his multiple criminal convictions.

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 be used only 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 Sims is not available by way of mandamus. Accordingly, we deny leave to proceed in forma pauperis, deny the motion to vacate the restitution order, and dismiss 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 DISMISSED