

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6266

In Re: JIMMY O'NEAL BROWN,

Petitioner.

On Petition for Writ of Mandamus.
(CA-01-410-1; CR-98-189)

Submitted: June 10, 2005

Decided: July 5, 2005

Before NIEMEYER, MOTZ, and TRAXLER, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Jimmy O'Neal Brown, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jimmy O'Neal Brown petitions for writ of mandamus. He seeks an order directing the Government to retest the drug evidence involved in his criminal case. Mandamus relief is available only when the petitioner has a clear right to the relief sought. In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). Further, mandamus is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. United States Dist. Ct., 426 U.S. 394, 402 (1976). After a review of the petition, we have determined that the relief sought by Brown 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