

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-2262

In Re: CHARLES A. RIPPY, JR.,

Petitioner.

On Petition for Writ of Mandamus and Writ of Prohibition.

Submitted: December 16, 2008

Decided: December 19, 2008

Before WILKINSON, MICHAEL, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Charles A. Rippy, Jr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles A. Rippy, Jr., a North Carolina prisoner, petitions for a writ of mandamus and a writ of prohibition. He challenges his criminal conviction and seeks the appointment of a new attorney and DNA testing. We deny the petition.

A writ of mandamus and a writ of prohibition are drastic remedies to be used only in extraordinary circumstances. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976) (writ of mandamus); In re Vargas, 723 F.2d 1461, 1468 (10th Cir. 1983) (writ of prohibition). Relief under these writs 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). The party seeking relief carries the heavy burden of showing that he has "no other adequate means to attain the relief he desires" and that his right to such relief is "clear and indisputable." Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980). Rippy has not made such a showing. Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition. 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