

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-2371

In Re: WALTER FRANK AGEE,

Petitioner.

On Petition for Writ of Mandamus.

Submitted: February 24, 2011 Decided: February 28, 2011

Before GREGORY, SHEDD, and KEENAN, Circuit Judges.

Petition dismissed by unpublished per curiam opinion.

Walter Frank Agee, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Walter Frank Agee, a West Virginia prisoner, petitions for a writ of mandamus seeking an order directing the state court to grant him a new trial. We conclude that Agee is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); United States v. Moussaoui, 333 F.3d 509, 516-17 (4th Cir. 2003). Further, 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).

This court does not have jurisdiction to grant mandamus relief against state officials, Gurley v. Superior Court of Mecklenburg County, 411 F.2d 586, 587 (4th Cir. 1969), and does not have jurisdiction to review final state court orders, District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482 (1983). Accordingly, we dismiss the petition for writ of mandamus, as amended. 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