

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-2155

In re: SCOTT E. LUELLEN,

Petitioner.

On Petition for Writ of Prohibition.
(1:08-cr-00102-LO-1)

Submitted: January 31, 2012 Decided: February 2, 2012

Before NIEMEYER, KING, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Scott E. Luellen, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Scott E. Luellen petitions for a writ of prohibition seeking to divest the district court of jurisdiction to adjudicate his 28 U.S.C.A. § 2255 (West Supp. 2011) motion. We conclude that Luellen is not entitled to relief.

Writs of mandamus and prohibition are drastic remedies and should be used only in extraordinary circumstances. Kerr v. U.S. Dist. Court, 426 U.S. 394, 402 (1976); United States v. Moussaoui, 333 F.3d 509, 516-17 (4th Cir. 2003). A "writ of prohibition is a drastic and extraordinary remedy which should be granted only when the petitioner has shown his right to the writ to be clear and undisputable and that the actions of the court were a clear abuse of discretion." In re Vargas, 723 F.2d 1461, 1468 (10th Cir. 1983) (citation omitted). A writ of prohibition may not be used as a substitute for appeal. Id. (prohibition).

The relief sought by Luellen is not available by way of prohibition. Accordingly, we deny Luellen's writ. 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