

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1138

In re: CORNELIOUS LEROY CHASE,

Petitioner.

On Petition for a Writ of Mandamus.
(8:11-cv-02486-RWT)

Submitted: May 31, 2012

Decided: June 5, 2012

Before KING, DUNCAN, and DIAZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Cornelius Leroy Chase, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Cornelious Leroy Chase petitions for a writ of mandamus, requesting that the court direct one of the defendants named in his pending 42 U.S.C. § 1983 (2006) action to file an answer to his complaint. Mandamus is a drastic remedy to 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). Mandamus relief is available only when there are no other means by which the relief sought could be granted, and should not be used as a substitute for appeal. Moussaoui, 333 F.3d at 517. The party seeking mandamus relief bears the heavy burden of showing he has no other adequate means to obtain the relief sought and that his entitlement to relief is clear and indisputable. Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980).

Our review of the district court's docket reveals that Chase filed a motion identical to his current petition in the district court on January 25, 2012. The district court denied it on February 14. Because mandamus relief is not a substitute form of appellate relief, we deny Chase's petition. We likewise deny his pending motions to appoint counsel and to set a trial date. 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