

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 13-1105**

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In re: HARRY NIE,

Petitioner.

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On Petition for Writ of Mandamus.  
(2:11-cv-00666-RBS-DEM)

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Submitted: April 18, 2013

Decided: April 22, 2013

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Before WILKINSON, GREGORY, and DAVIS, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Harry Nie, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Harry Nie petitions for a writ of mandamus, requesting that this court examine the district court's denial of his 28 U.S.C. § 2254 (2006) petition. We have already done so. See Nie v. Clarke, No. 12-7644, 2012 WL 6604913 (4th Cir. Dec. 19, 2012) (per curiam). We decline Nie's invitation to revisit the district court's ruling under the guise of entertaining a writ of mandamus, given that 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). Indeed, mandamus relief is available only when there are no other means by which the relief sought could be granted, and it should not be used as a substitute for appeal. Moussaoui, 333 F.3d at 517.

Accordingly, although we grant Nie leave to proceed in forma pauperis, we deny his petition for writ of mandamus. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED