

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-558

In Re: BRETT C. KIMBERLIN,

Petitioner.

On Petition for Writ of Mandamus.
(CA-97-1687-AW)

Submitted: July 21, 1998

Decided: August 12, 1998

Before ERVIN and WILKINS, Circuit Judges, and HALL, Senior Circuit
Judge.

Petition denied by unpublished per curiam opinion.

Brett C. Kimberlin, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Brett C. Kimberlin filed this petition for a writ of mandamus seeking to compel the district court to grant his habeas petition challenging revocation of his parole under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1998). The granting of a writ of mandamus is a drastic remedy to be used in extraordinary circumstances.¹ A petitioner must show that he has a clear right to the relief sought, that the respondent has a clear duty to perform the act requested by petitioner, and that there is no other adequate remedy available.² Kimberlin has failed to make the requisite showing for such extraordinary relief. Subsequent to Kimberlin filing this petition and mandamus, the district court denied his § 2254 petition and Kimberlin noted a timely appeal from that order. Accordingly, though we grant Kimberlin's motion to proceed in forma pauperis, we deny his petition for a writ of mandamus. 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

¹ See In re Beard, 811 F.2d 818, 826 (4th Cir. 1987).

² See In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988).