

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-6137

In Re: KITTRELL BERNARD DECATOR; In Re: CRAIG
LAMONT SCOTT,

Petitioners.

On Petition for Writ of Mandamus.
(CA-01-2289-S)

Submitted: April 30, 2002

Decided: June 10, 2002

Before WILKINS, MOTZ, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Kittrell Bernard Decator, Craig Lamont Scott, Petitioners Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Kittrell Decator and Craig Scott have filed a petition for a writ of mandamus asking this court to overturn the district court's dismissal of their civil tort 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). Mandamus relief is only available when there are no other means by which the relief sought could be granted, In re Beard, 811 F.2d 818, 826 (4th Cir. 1987), and may not be used as a substitute for appeal. In re Catawba Indian Tribe, 973 F.2d 1133, 1135 (4th Cir. 1992). The party seeking prohibition or mandamus relief carries the heavy burden of showing that he has no other adequate means to attain the relief he desires and that his entitlement to such relief is clear and indisputable. Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980).

Decator and Scott have not made such a showing. Appellate review of the district court's dismissal of their civil tort complaint could have been obtained by direct appeal. Accordingly, we deny their petition for mandamus relief. 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