

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6999

In Re: TERRENCE ARNEZ DANIELS,

Petitioner.

On Petition for Writ of Error Coram Nobis.
(5:01-cr-00736-CMC-2)

Submitted: September 22, 2006

Decided: October 18, 2006

Before WILKINSON, WILLIAMS, and MOTZ, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Terrence Arnez Daniels, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Terrence Arnez Daniels petitions for a writ of error coram nobis, seeking an evidentiary hearing to consider his claims of ineffective assistance of counsel and unconstitutional sentencing enhancements. A writ of error coram nobis pursuant to 28 U.S.C. § 1651 (2000) can be used to vacate a conviction when there is a fundamental error resulting in conviction, and no other means of relief is available. See United States v. Morgan, 346 U.S. 502, 509-11 (1954); United States v. Mandel, 862 F.2d 1067, 1074-75 (4th Cir. 1988). But see Carlisle v. United States, 517 U.S. 416, 429 (1996) (noting "it is difficult to conceive of a situation in a federal criminal case today where a writ of coram nobis would be necessary or appropriate."). The remedy is also limited to petitioners who are no longer in custody pursuant to their conviction. See Carlisle, 517 U.S. at 429.

Our review of the petition leads us to conclude that Daniels failed to establish that his conviction is invalid, or that he is no longer in custody pursuant to his conviction, and he is therefore not entitled to coram nobis relief. Accordingly, we grant Daniels' motion to proceed in forma pauperis, grant his motion to file an oversized brief, and deny the petition for a writ of error coram nobis. 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