

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-1062

In Re: CHARLES LAMONT HAIRSTON; PETER LAMONT SMITH,
Petitioners.

On Petition for Writ of Mandamus.
(1:06-cr-00307-NCT-1; 1:08-cr-00146-NCT-1)

Submitted: June 1, 2010

Decided: June 7, 2010

Before GREGORY, SHEDD, and KEENAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Charles Lamont Hairston, Peter Lamont Smith, Petitioners Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles Lamont Hairston and Peter Lamont Smith petition for a writ of mandamus seeking their immediate release from incarceration pending disposition of their intended Qui Tam action, an expedited decision in their intended Qui Tam action, and orders of acquittal in all cases prosecuted by David Folmar on behalf of the United States Attorney's Office, and accountability by the United States Attorney's Office for allowing Folmar to continue to work there after his license was suspended. We conclude that Hairston and Smith are not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should 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). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought. In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988).

The relief sought by Hairston and Smith is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for 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