

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-1109

In Re: DWIGHT LAMAR SPEARS,

Petitioner.

On Petition for Writ of Prohibition. (7:08-cr-00112-HFF-3)

Submitted: April 29, 2010

Decided: May 3, 2010

Before MOTZ and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

Dwight Lamar Spears, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dwight Spears, a federal prisoner incarcerated in South Carolina, petitions for writ of prohibition. He seeks this court to prohibit the district court from further proceedings in his criminal action. We deny the petition.

A writ of prohibition will not issue unless it "clearly appears that the inferior court is about to exceed its jurisdiction." Smith v. Whitney, 116 U.S. 167, 176 (1886). A writ of prohibition or mandamus is a drastic remedy which should be granted only where the petitioner's right to the requested relief is clear and indisputable. In re Vargas, 723 F.2d 1461, 1468 (10th Cir. 1983); In re Missouri, 664 F.2d 178, 180 (8th Cir. 1981). Further, a writ of prohibition should be granted only where the petitioner has no other adequate means of relief. In re Banker's Trust Co., 775 F.2d 545, 547 (3d Cir. 1985).

Here, we find that Spears has not established that he has a clear right to the relief he seeks. Accordingly, although we grant Spears' motion to proceed in forma pauperis, we deny the petition.

PETITION DENIED