

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-676

In Re: STANLEY SHANE SMITH,

Petitioner.

On Petition for Writ of Mandamus. (CA-85-987-5-CRT-BR)

Submitted: November 6, 1997

Decided: November 18, 1997

Before WIDENER and LUTTIG, Circuit Judges, and BUTZNER, Senior
Circuit Judge.

Petition denied by unpublished per curiam opinion.

Stanley Shane Smith, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Stanley Shane Smith has filed a petition for a writ of mandamus from this court seeking an order compelling the district court to file a notice of appeal. Mandamus is a drastic remedy to be used only in extraordinary circumstances. See 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, see 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 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). Smith has not made such a showing. Accordingly, we deny in forma pauperis status and deny Smith's 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