

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 23-2230**

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In re: TYRONE L. EXUM,

Petitioner.

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On Petition for Writ of Mandamus to the United States District Court for the Eastern District of North Carolina, at Raleigh. (5:15-hc-02031-BO)

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Submitted: January 30, 2024

Decided: February 5, 2024

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Before KING, AGEE, and THACKER, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Tyrone L. Exum, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tyrone Exum petitions for a writ of mandamus seeking an order from this court directing the district court to liberally construe his motion for reconsideration of his 28 U.S.C. § 2254 petition as an actual innocence claim and order the state to respond. We conclude that Exum is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367, 380 (2004); *In re Murphy-Brown, LLC*, 907 F.3d 788, 795 (4th Cir. 2018). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought and “has no other adequate means to attain the relief [he] desires.” *Murphy-Brown*, 907 F.3d at 795 (alteration and internal quotation marks omitted).

The district court has denied relief on Exum’s motion for reconsideration, *Exum v. Daniels*, 5:15-hc-02031-BO (E.D.N.C. Oct. 13, 2023), and his appeal is currently pending before this court, *see Exum v. Daniels*, No. 23-7171 (4th Cir. docketed Nov. 22, 2023). As mandamus may not be used as a substitute for appeal, *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007), Exum has failed to demonstrate that he is entitled to mandamus relief.

Accordingly, 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 this court and argument would not aid the decisional process.

*PETITION DENIED*