

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-2281

In re: BRANDON MICHAEL PICKENS,

Petitioner.

On Petition for Writ of Mandamus to the United States District Court for the Western District of North Carolina, at Asheville. (1:21-cv-00030-MR)

Submitted: January 30, 2024

Decided: February 5, 2024

Before KING, AGEE, and THACKER, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Brandon Michael Pickens, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Brandon Michael Pickens, a North Carolina inmate, petitions for a writ of mandamus seeking an order directing the district court to allow Pickens to amend his complaint in the underlying 42 U.S.C. § 1983 action and to appoint counsel to represent Pickens. We conclude that Pickens 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).

By order entered on November 8, 2023, the district court denied Pickens’ most recent motions to amend his complaint and for the appointment of counsel. *See Pickens v. Hendricks*, No. 1:21-cv-00030-MR (W.D.N.C., PACER No. 190). Because mandamus may not be used as a substitute for appeal, *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007), the relief Pickens seeks is not available by way of mandamus. Accordingly, we deny the petition for a 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