UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1575

In Re: EDWARD JAMES EGAN, SR.,

                    Petitioner.

On Petition for Writ of Error Coram Nobis.
(7:07-cv-00509-gec-mfu)

Submitted: July 7, 2009   Decided: July 27, 2009

Before TRAXLER, Chief Judge, and MOTZ and SHEDD Circuit Judges.

Petition denied by unpublished per curiam opinion.

Edward James Egan, Sr., Petitioner Pro Se.

PER CURIAM:

Edward James Egan, Sr., a Virginia inmate, petitions this court for a writ of error coram nobis, 28 U.S.C. § 1651(a) (2006). Egan challenges his 2004 Virginia convictions for forcible sodomy, rape, and inanimate object penetration and the district court's 2008 dismissal of his 28 U.S.C. § 2254 (2006) petition.

The writ of error coram nobis may not be used to set aside a state conviction. See, e.g., Finkelstein v. Spitzer, 455 F.3d 131, 134 (2d Cir. 2006); Obado v. New Jersey, 328 F.3d 716, 718 (3d Cir. 2003); Lowery v. McCaughtry, 954 F.2d 422, 423 (7th Cir. 1992); Sinclair v. Louisiana, 679 F.2d 513, 514 (5th Cir. 1982); Thomas v. Cunningham, 335 F.2d 67, 69 (4th Cir. 1964); Rivenburgh v. Utah, 299 F.2d 842, 843 (10th Cir. 1962). With respect to his challenge to the district court's disposition of his § 2254 petition, Egan could have raised his claims in a direct appeal to this court. Coram nobis, however, is not a substitute for direct appeal, and the writ will not lie where there is another adequate remedy available. See United States v. Darnell, 716 F.2d 479, 481 & n.5 (7th Cir. 1983); Azzone v. United States, 341 F.2d 417, 419 (8th Cir. 1965).

Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for a writ of error coram

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nobis and deny Egan's motions for an evidentiary hearing and for appointment of counsel. 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.

<div align="right">PETITION DENIED</div>