

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 20-1909**

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In re: SHAPAT AHDAWAN NABAYA,

Petitioner.

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On Petition for Writ of Mandamus. (3:17-cr-00003-MHL-1)

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Submitted: December 22, 2020

Decided: December 28, 2020

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Before NIEMEYER, FLOYD, and RICHARDSON, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Shapat Ahdawan Nabaya, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Shapat Ahdawan Nabaya petitions for a writ of mandamus asserting that the district court has delayed in ruling on his writ of actual innocence. He asserts his innocence and asks this court to order his immediate release and to vacate the indictment and his criminal judgment.

Our review of the district court's docket reveals that the district court denied Nabaya's Motion for Certificate of Innocence, Motion for Writ of Innocence, and Emergency Motion for a Writ of Actual Innocence on August 31, 2020. Accordingly, to the extent that Nabaya seeks an order directing the district court to act on these motions, we deny the mandamus petition as moot.

To the extent that Nabaya seeks an order from this court vacating his criminal judgment or ordering his immediate release, Nabaya 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. *Murphy-Brown*, 907 F.3d at 795. Additionally, mandamus may not be used as a substitute for appeal. *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007).

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*