

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-2011

In re: DARREL R. FISHER,

Petitioner.

On Petition for Writ of Mandamus to the United States District Court for the Eastern District of North Carolina, at Raleigh. (5:18-ct-03064-BO)

Submitted: October 27, 2023

Decided: December 12, 2023

Before QUATTLEBAUM and HEYTENS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Darrel R. Fisher, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darrel R. Fisher has filed a petition for a writ of mandamus challenging the district court's order dismissing his *Bivens** action without prejudice for failure to comply with a court order. We conclude that Fisher 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). Fisher seeks relief from the district court's order dismissing his *Bivens* action. However, 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 Fisher seeks is not available by way of mandamus. 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

* *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).