

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-2186

In Re: THOMAS D. DIXON, JR.,

Petitioner.

On Petition for Writ of Prohibition.
(1:05-cr-00131-RDB; 1:05-cr-00599-RDB)

Submitted: December 8, 2006

Decided: January 10, 2007

Before NIEMEYER and MICHAEL, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Thomas D. Dixon, Jr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas D. Dixon, Jr., petitions this court for a writ of prohibition, seeking an order directing the district court to enjoin all criminal proceedings in Case No. 1:05-cr-00131-RDB and Case No. 1:05-cr-00599-RDB. We conclude that Dixon is not entitled to relief.

A writ of prohibition should not issue unless it "clearly appears that the inferior court is about to exceed its jurisdiction." Smith v. Whitney, 116 U.S. 167, 176 (1886). A writ of prohibition is a drastic remedy that should be granted only when the petitioner's right to the requested relief is clear and indisputable. In re Vargas, 723 F.2d 1461, 1468 (10th Cir. 1983); In re Missouri, 664 F.2d 178, 180 (8th Cir. 1981). Further, a writ of prohibition should be granted only when the petitioner has no other adequate means of relief, In re Banker's Trust Co., 775 F.2d 545, 547 (3d Cir. 1985), and a writ of prohibition may not be used as a substitute for the normal appellate process. Missouri, 664 F.2d at 180.

Dixon asserts that the district court lacks subject matter jurisdiction in both criminal prosecutions. However, Dixon's petition for a writ of prohibition is moot with respect to Case No. 1:05-cr-00131-RDB, as that case was dismissed on November 6, 2006. With respect to Case No. 1:05-cr-00599-RDB, Dixon has failed to demonstrate that his right to relief is clear

and indisputable, or that this matter cannot be considered through the normal appellate process. Accordingly, because Dixon may challenge any adverse final judgment of the district court by direct appeal, the relief he seeks in this proceeding is not available. We therefore deny the petition. 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.

PETITION DENIED