UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7054

In Re: MARCO TERRELL HUTCHINSON,

Petitioner.

On Petition for Writ of Mandamus. (3:05-cr-00374-MBS)

Submitted: November 16, 2007 Decided: December 4, 2007

Before MOTZ, SHEDD, and DUNCAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Marco Terrell Hutchinson, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marco Terrell Hutchinson petitions for a writ of mandamus seeking an order compelling his criminal trial attorney and the Government's attorney to provide him with certain materials. We conclude that Hutchinson is not entitled to mandamus relief.

Mandamus relief is available only when the petitioner has a clear right to the relief sought. In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). Further, only exceptional circumstances amounting to a judicial usurpation of power will justify the invocation of this extraordinary remedy. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976). "Mandamus 'has traditionally been used in the federal courts only to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.'" United States v. Moussaoui, 333 F.3d 509, 516 (4th Cir. 2003) (quoting Will v. United States, 389 U.S. 90, 95 (1967)). Mandamus may not be used as a substitute for appeal. In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

The relief sought by Hutchinson is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, 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 the court and argument would not aid the decisional process.

PETITION DENIED