

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7105

In Re: HERBERT CHAVIS,

Petitioner.

On Petition for Writ of Mandamus. (3:07-cv-00291)

Submitted: November 28, 2007

Decided: December 17, 2007

Before NIEMEYER, MICHAEL, and TRAXLER, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Herbert Chavis, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Herbert Chavis petitions for a writ of mandamus seeking an order compelling the district court to vacate his 1997 state court convictions and remand to the trial court for a new trial. We conclude that Chavis 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, mandamus is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987).

Mandamus relief is available only where there is no other available remedy. In re Braxton, 258 F.3d 250, 261 (4th Cir. 2001). Here, Chavis had other means of obtaining relief; namely, through a collateral attack on his conviction. Therefore, the relief sought by Chavis 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