

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-1207

In Re: OMAR DEMITRIOUS PEARSON,

Petitioner.

No. 08-1222

In Re: OMAR DEMITRIOUS PEARSON,

Petitioner.

On Petition for Writ of Mandamus.
(1:08-cv-00013-WWD)

Submitted: March 25, 2008

Decided: March 28, 2008

Before MOTZ, KING, and GREGORY, Circuit Judges.

Petitions denied by unpublished per curiam opinion.

Omar Demitrious Pearson, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Omar Demitrious Pearson has filed two petitions for writ of mandamus seeking orders directing the North Carolina Innocence Inquiry Commission to fully investigate all incoming claims of actual innocence under North Carolina's habitual felon statute, directing the district court not to dismiss his 28 U.S.C. § 2254 (2000) petition and to declare North Carolina's habitual felon statute unconstitutional. We conclude Pearson 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). It may not be used as a substitute for appeal. In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979). Further, mandamus is a drastic remedy and should only be used 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).

The relief sought by Pearson is not available by way of mandamus. Accordingly, while we grant Pearson's applications for leave to proceed in forma pauperis, we deny the petitions 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.

PETITIONS DENIED