

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-2035

In Re: TYRONE HURT,

Petitioner.

On Petition for Writ of Mandamus.

Submitted: November 19, 2008

Decided: December 17, 2008

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

Petition denied by unpublished per curiam opinion.

Tyrone Hurt, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tyrone Hurt petitions for a writ of mandamus, seeking the "immediate release of the appellee." Mandamus is a drastic remedy to be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1974); In re: Beard, 811 F.2d 818, 826 (4th Cir. 1987). 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). A mandamus petitioner must show that he has a clear right to the relief sought, that the respondent has a clear duty to perform the particular act requested, and that the plaintiff has no other adequate remedy. Id.

We conclude that Hurt has not made the required showing. Accordingly, while we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus. The motion for appointment of counsel is denied. 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