

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1648

In Re: GEORGE W. GANTT-EL,

Petitioner.

On Petition for Writ of Mandamus. (1:09-cv-00040-UA-DPD)

Submitted: November 19, 2009 Decided: December 1, 2009

Before MOTZ, GREGORY, and SHEDD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

George W. Gantt-El, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

George W. Gantt-El petitions for a writ of mandamus seeking an order directing the district court to stop denying him access to court in his habeas corpus proceeding. We conclude that Gantt-El 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 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). 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 Gantt-El 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 deny Gantt-El's motion for a certificate of appealability as unnecessary and deny his motion for judicial notice. 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