

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-1996**

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In Re: FRANK LATHAN HINTON,  
  
Petitioner.

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On Petition for Writ of Mandamus. (2:94-cr-00106-RAJ-1)

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Submitted: September 24, 2009                      Decided: October 6, 2009

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Before WILKINSON and MOTZ, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Petition denied by unpublished per curiam opinion.

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Frank Lathan Hinton, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frank Lathan Hinton petitions for a writ of mandamus. He seeks an order directing that he be brought to the United States District Court for the Eastern District of Virginia for the purpose of resentencing. Mandamus relief is available only when the petitioner has a clear right to the relief sought. See 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. See 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. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

Because Hinton does not have a clear right to the requested relief and mandamus may not be used as a substitute for appeal, we deny his 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