

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-1930

In re: TIAYON KARDELL EVANS,

Petitioner.

On Petition for Writ of Mandamus. (2:04-cr-00099-RAJ-1)

Submitted: November 16, 2011

Decided: December 16, 2011

Before WILKINSON, DUNCAN, and WYNN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Tiayon Kardell Evans, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tiayon Kardell Evans petitions for a writ of mandamus seeking an order compelling the district court to vacate his criminal judgment on the ground that the district court lacked jurisdiction to convict him. We conclude that Evans is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); United States v. Moussaoui, 333 F.3d 509, 516-17 (4th Cir. 2003). Further, 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). Mandamus may not be used as a substitute for appeal. In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007).

The relief sought by Evans 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