

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1877

In re: RAJUL RUHBAYAN, a/k/a Day-Ja, a/k/a Deja, a/k/a Amir Ruhbayan, a/k/a Jibra'el Ruh'alamín, a/k/a Jibrael Ruh'alamín, a/k/a Creme, a/k/a James Vernon Wood, a/k/a James Vernetta Johnson, a/k/a Kreem,

Petitioner.

On Petition for Writ of Mandamus.
(No. 2:02-cr-00029-RBS-FBS-1)

Submitted: November 20, 2012

Decided: November 26, 2012

Before TRAXLER, Chief Judge, and SHEDD and FLOYD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Rajul Ruhbayan, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rajul Ruhbayan petitions for a writ of mandamus seeking an order requiring his resentencing. We conclude that Ruhbayan 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 Ruhbayan 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