

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-2009

In re: NICHOLAS JAMES QUEEN, SR.

Petitioner.

On Petition for Writ of Mandamus
(No. 1:93-cr-00366-WMN-1)

Submitted: November 4, 2013

Decided: November 7, 2013

Before WILKINSON, MOTZ, and AGEE, Circuit Judges.

Petition dismissed by unpublished per curiam opinion.

Nicholas James Queen, Sr., Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Nicholas James Queen petitions for a writ of mandamus, seeking an order vacating his criminal judgment and commitment order. We deny leave to proceed in forma pauperis and dismiss the petition.

Mandamus is a drastic remedy to 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 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).

The relief sought by Queen is unavailable by way of mandamus. Accordingly, we deny leave to proceed in forma pauperis and dismiss the mandamus petition. 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.

DISMISSED