

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7745

JAY MIKAL BROOKS,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA; RUSSELL W. DUKE, JR.,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. Louise W. Flanagan,
District Judge. (5:13-hc-02112-FL)

Submitted: January 21, 2014

Decided: January 24, 2014

Before MOTZ, KEENAN, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Jay Mikal Brooks, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jay Mikal Brooks appeals the district court's order denying his self-styled motion for a writ of mandamus seeking to compel the North Carolina courts to release him. Brooks alleged that North Carolina lacked jurisdiction over him because he is a flesh and blood Moorish American. It appears that, without providing notice to Brooks, the district court may have construed his motion as an initial petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (2012), and dismissed it without prejudice. Despite this possible error, see Castro v. United States, 540 U.S. 375, 383 (2003), we may affirm the district court's denial of relief on any basis that is apparent in the record. See MM ex rel. DM v. Sch. Dist. of Greenville Cnty., 303 F.3d 523, 536 (4th Cir. 2002).

We agree with the district court that Brooks' claim is patently frivolous. Federal courts do not have jurisdiction to compel state officials to act, Gurley v. Superior Court of Mecklenburg Cnty., 411 F.2d 586, 587 (4th Cir. 1969), and mandamus relief is a drastic remedy that should be used only in extraordinary circumstances. Kerr v. U.S. Dist. Court, 426 U.S. 394, 402 (1976); United States v. Moussaoui, 333 F.3d 509, 516-17 (4th Cir. 2003). Because Brooks did not demonstrate in the district court a clear right to the relief sought, see In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988),

we grant leave to proceed in forma pauperis and affirm the district court's denial of relief.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED