

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 14-1914**

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In re: TADARIAN RESHAWN NEAL,

Petitioner.

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On Petition for Writ of Mandamus.  
(3:09-cr-00017-FDW-DCK-1)

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Submitted: October 21, 2014

Decided: October 23, 2014

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Before SHEDD, DUNCAN, and FLOYD, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Tadarian Reshawn Neal, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tadarian Reshawn Neal petitions for a writ of mandamus seeking an order vacating his sentence pursuant to United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc). We conclude that Neal is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and 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). 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).

Because Neal filed an unsuccessful direct appeal of the challenged criminal judgment, see United States v. Neal, 458 F. App'x 246 (4th Cir. 2011) (Nos. 09-5043, 09-5044), he may not use this mandamus petition to obtain a second appeal. 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 this court and argument would not aid the decisional process.

PETITION DENIED