

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-1732

In Re: DAVID A. ACEVEDO,

Petitioner.

On Petition for Writ of Error Coram Nobis.
(3:05-cr-00214-JRS-1)

Submitted: October 28, 2015

Decided: November 4, 2015

Before NIEMEYER, KING, and GREGORY, Circuit Judges.

Petition denied by unpublished per curiam opinion.

David A. Acevedo, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David A. Acevedo petitions this court for a writ of error coram nobis pursuant to 28 U.S.C. § 1651(a) (2012). In his petition, Acevedo alleges that his convictions are invalid and seeks an order from this court vacating his criminal judgment.

A writ of error coram nobis can be used to vacate a conviction when there is a fundamental error resulting in conviction, and no other means of relief is available. See United States v. Denedo, 556 U.S. 904, 911 (2009). But see Carlisle v. United States, 517 U.S. 416, 429 (1996) (noting "it is difficult to conceive of a situation in a federal criminal case today where a writ of coram nobis would be necessary or appropriate") (citation and internal quotation marks omitted). The remedy is also limited to petitioners who are no longer in custody pursuant to their conviction. See Carlisle, 517 U.S. at 429. "As a remedy of last resort, the writ of error coram nobis is granted only where an error is of the most fundamental character and there exists no other available remedy." United States v. Akinsade, 686 F.3d 248, 252 (4th Cir. 2012) (internal quotation marks omitted).

We conclude that Acevedo fails to establish that he is entitled to a writ of error coram nobis. Accordingly, although we grant Acevedo leave to proceed in forma pauperis, we deny the petition for a writ of error coram nobis. 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