

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-1797

In Re: TRACY JARVIS ALLEN,
Petitioner.

On Petition for Writ of Mandamus.
(4:05-cr-00340-TLW-1)

Submitted: December 1, 2016 Decided: December 21, 2016

Before GREGORY, Chief Judge, and MOTZ and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Tracy Jarvis Allen, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tracy Jarvis Allen petitions for a writ of mandamus seeking an order from this court directing his immediate release from prison based on his claim for Johnson* relief from his armed career criminal sentence. We deny the petition.

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), and when there are no other means by which that relief could be granted, Moussaoui, 333 F.3d at 517.

Currently pending in the district court is Allen's authorized, successive 28 U.S.C. § 2255 (2012) motion in which Allen raises the same Johnson arguments advanced in the instant petition. Thus, because there is another avenue through which Allen could obtain the relief he seeks, we deny the instant mandamus petition.

To the extent Allen's mandamus petition could be construed to allege undue delay by the district court in adjudicating the successive § 2255 motion and to seek an order from this court

* Johnson v. United States, 135 S. Ct. 2551 (2015).

directing the district court to act, we find the present record does not reveal undue delay in the district court. 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