

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-1963

In Re: CHARLES D. IZAC,

Petitioner.

On Petition for Writ of Error Coram Nobis and Writ of Mandamus.
(3:02-cr-00058-JPB-JES-1; 3:16-cv-00099-JPB-JES)

Submitted: December 9, 2016 Decided: December 21, 2016

Before SHEDD, AGEE, and KEENAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Charles D. Izac, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles D. Izac petitions for a writ of error coram nobis and writ of mandamus seeking an order directing his immediate release from incarceration. We conclude that Izac is not entitled to coram nobis relief or mandamus relief.

To obtain coram nobis relief, the petitioner must show that a more usual remedy is unavailable; there is a "valid basis" for not having challenged his conviction earlier; "the consequences flowing to the petitioner from his convictions [are] sufficiently adverse to satisfy Article III's case or controversy requirement;" and "the error . . . must be of the most fundamental character." Bereano v. United States, 706 F.3d 568, 576 (4th Cir. 2013) (internal quotation marks omitted).

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).

Izac's 28 U.S.C. § 2255 (2012) motion challenging his conviction and sentence is pending in the district court. Therefore, the relief sought by Izac is not available by way of coram nobis or mandamus. Accordingly, although we grant leave to

proceed in forma pauperis, we deny the petition for writ of error coram nobis and writ of mandamus. Additionally, we deny Izac's motions for relief from judgment, for summary disposition, and for consideration of his petition by the en banc court. 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