

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-2094

In re: EDWARD EAVES,

Petitioner.

On Petition for Writ of Mandamus. (3:16-cv-00129-GCM)

Submitted: December 15, 2016

Decided: December 19, 2016

Before SHEDD, DUNCAN, and AGEE, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Edward Eaves, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Edward Eaves petitions for a writ of mandamus seeking an order directing the district court to issue an order denying a motion to dismiss. We conclude that Eaves 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). Here, the district court granted defendant's motion to dismiss Eaves' employment discrimination case. The appropriate way to challenge that ruling is by appealing it. Mandamus may not be used as a substitute for appeal. In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007).

The relief sought by Eaves is not available by way of mandamus. 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