UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-2371

In re: DAVID LEE SMITH,

Petitioner.

On Petition for Writ of Mandamus

Submitted: March 14, 2017 Decided: March 16, 2017

Before FLOYD and HARRIS, Circuit Judges, and DAVIS, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

David Lee Smith, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Lee Smith petitions for a writ of mandamus seeking an order directing the district court to reopen his civil case, grant him in forma pauperis status, and adjudicate his civil complaint. We conclude that Smith 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). 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 Smith is not available by way of mandamus.

Accordingly, although we grant leave to proceed in forma pauperis, we deny Smith's motion for an en banc determination and 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