UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1490

In re: DAVID L. SMITH

Petitioner.

On Petition for Writ of Mandamus
(No. 5:17-ct-03063-D)

Submitted: July 27, 2017 Decided: July 31, 2017

Before AGEE and FLOYD, Circuit Judges, and HAMILTON, 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Petition denied by unpublished per curiam opinion.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Unpublished opinions are not binding precedent in this circuit.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 review Smith's civil cases as a first 28 U.S.C. § 2254 (2012) petition, or in the alternative, a Fed. R. Civ. P. 60(b) motion, reduce Smith's state sentence to time served, and order the state custodian to release him. 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). Further, this court does not have jurisdiction to grant mandamus relief against state officials, *Gurley v. Superior Court of Mecklenburg Cty.*, 411 F.2d 586, 587 (4th Cir. 1969), and does not have jurisdiction to review final state court orders, *Dist. of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983).

The relief sought by Smith is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition and supplemental 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