

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1647

In re: FREDERICK BANKS,

Petitioner.

On Petition for Writ of Mandamus. (5:17-hc-02102-BO)

Submitted: September 28, 2017

Decided: October 2, 2017

Before WILKINSON, MOTZ, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Frederick Hamilton Banks, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frederick Banks petitions this court for a writ of habeas corpus and a writ of mandamus, challenging the legality of his detention and seeking transfer or immediate release. Because Banks is not incarcerated within this circuit, we lack jurisdiction to grant relief under 28 U.S.C. § 2241(a) (2012). We further conclude that it is not in the interests of justice to transfer the petition to the court that would have jurisdiction. *See* 28 U.S.C. §§ 1631, 2241(b) (2012).

To the extent Banks asks this court to grant him mandamus relief, mandamus is a drastic remedy to 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). In fact, mandamus relief is available only when there are no other means by which the relief sought could be granted. *Moussaoui*, 333 F.3d at 517. Thus, to obtain mandamus relief, a petitioner must establish that: (1) he has a clear and indisputable right to the relief sought; (2) the responding party has a clear duty to do the specific act requested; (3) the act requested is an official act or duty; (4) there are no other adequate means to attain the desired relief; and (5) the issuance of the writ will effect right and justice in the circumstances. *In re Braxton*, 258 F.3d 250, 261 (4th Cir. 2001). Banks' petition has not established that he has a clear right to the relief he seeks.

Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition. We dispense with oral argument because the facts and legal contentions are

adequately presented in the materials before this court and would not aid the decisional process.

PETITION DENIED