

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1490

In re: HOWARD WHITE,

Petitioner.

On Petition for Writ of Mandamus. (1:18-cv-00214-AJT-MSN)

Submitted: June 14, 2018

Decided: June 18, 2018

Before TRAXLER, DUNCAN, and WYNN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Howard White, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Howard White petitions for a writ of mandamus seeking an order directing the district court to hold an evidentiary hearing in his pending 28 U.S.C. § 2254 (2012) proceeding and directing various individuals to present evidence in that proceeding. We conclude that White 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). 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). Further, 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 White 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. Because White fails to demonstrate “exceptional circumstances where action by a panel would be impractical due to the requirements of time,” as necessary to warrant consideration by a single judge, *see* 4th Cir. R. 27(e), we deny White’s “motion for expedited emergency hearing.” 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