

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-1874

In re: DAVID L. SMITH

Petitioner.

On Petition for Writ of Mandamus. (5:19-hc-02207-FL)

Submitted: November 27, 2019

Decided: January 13, 2020

Before MOTZ, KEENAN, and FLOYD, Circuit Judges.

Petition denied by unpublished per curiam opinion.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Unpublished opinions are not binding precedent in this circuit.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 invalidate his state conviction or reduce his state sentence and direct 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 Murphy-Brown, LLC*, 907 F.3d 788, 795 (4th Cir. 2018).

Mandamus may not be used as a substitute for appeal. *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007). 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, we deny the petition and supplemental petition for writ of mandamus. We further deny Smith's motion to amend his habeas corpus petition. 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.

Based on the numerous meritless and repetitive motions and appeals that Smith has filed in this court, we previously warned Smith that filing further frivolous filings could result in the court ordering Smith to show cause why he should not be sanctioned. *See*

Smith v. North Carolina, No. 19-6453 (4th Cir. July 24, 2019) (unpublished order); *Smith v. North Carolina*, No. 19-6459 (4th Cir. July 24, 2019) (unpublished order); *In re Smith*, No. 19-1496 (4th Cir. Aug. 21, 2019) (unpublished order); *Smith v. Jackson*, No. 03-6044 (4th Cir. Aug. 19 & Nov. 6, 2019) (unpublished orders). Smith has not heeded this warning. Upon review of Smith's current petition, we order Smith to show cause why this court should not impose a prefiling injunction or other sanctions, including monetary sanctions, against him. We direct Smith to file his response to this order to show cause no later than 21 days after the date of this opinion.

PETITION DENIED