

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 20-1255

In re: DAVID L. SMITH,

Petitioner.

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

Submitted: May 19, 2020

Decided: May 22, 2020

Before NIEMEYER, HARRIS, and RICHARDSON, 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Petition denied by unpublished per curiam opinion.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Unpublished opinions are not binding precedent in this circuit.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 from this court directing the district court to construe his 28 U.S.C. § 2254 (2018) petition as “a request for the U.S. Supreme [C]ourt to immediately issue an independent order, causing [the district court] to cause Wake County Superior Court Judge Paul C. Ridgeway to issue an extraordinary writ, causing the Pender Correctional Department of Transportation to produce him in Wake County Superior Court.” Smith also requests that this court direct the district court to reverse its denials of his motions and order that Judge Ridgeway set his appeal bond and release him pending a bond hearing. In his motion to amend the mandamus petition, Smith seeks an order from this court directing the district court to commute his state prison sentence and order his custodian to release him from prison. We conclude that Smith is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. *Cheney v. U.S. Dist. Court*, 542 U.S. 367, 380 (2004); *In re Murphy-Brown, LLC*, 907 F.3d 788, 795 (4th Cir. 2018). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought. *Murphy-Brown*, 907 F.3d at 795. 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, *D.C. 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 Smith's motion requesting that his in forma pauperis application be submitted to this court, grant leave to proceed in forma pauperis, and grant Smith's motion to amend, we deny the petition for a writ of mandamus as amended. 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