

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-40817



In re: JESUS ANAYA,

A True Copy
Certified order issued Jun 22, 2020

Petitioner

Lyfe W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circ

Petition for a Writ of Mandamus to the
United States District Court for the
Southern District of Texas

Before DAVIS, STEWART, and OLDHAM, Circuit Judges.

PER CURIAM:

Jesus Anaya, federal prisoner # 57713-198, has filed in this court a pro se petition for a writ of mandamus and a motion requesting leave to file his mandamus petition in forma pauperis (IFP). The motion for leave to proceed IFP is GRANTED.

Anaya pleaded guilty to maintaining a drug stash house in violation of 21 U.S.C. § 856(a)(2) and was sentenced to a 135-month term of imprisonment. Anaya appealed to this court, challenging the district court's denial of a base offense level reduction under U.S.S.G. § 2D1.8(a)(2) and the substantive reasonableness of his within-guidelines sentence. This court affirmed the district court's judgment. *United States v. Anaya*, 592 F. App'x 280, 280-82 (5th Cir. 2014). Anaya, pro se, filed a 28 U.S.C. § 2255 motion, challenging his sentence, and an amended § 2255 motion through counsel, alleging ineffective assistance of counsel. The district court denied § 2255 relief on procedural grounds and alternatively on the merits and denied a certificate of

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appealability (COA). In July 2019, this court denied a COA. In his mandamus petition, Anaya challenges his conviction and sentence on multiple grounds, all of which appear to be intertwined with his assertion that the district court erred in failing to reduce his base offense level under § 2D1.8(a)(2).

“Mandamus is an extraordinary remedy that should be granted only in the clearest and most compelling cases.” *In re Willy*, 831 F.2d 545, 549 (5th Cir. 1987). A party seeking mandamus relief must show both that he has no other adequate means to obtain the requested relief and that he has a “clear and indisputable” right to the writ. *Id.* (internal quotation marks and citation omitted). Mandamus is not a substitute for appeal. *See id.* “Where an interest can be vindicated through direct appeal after a final judgment, this court will ordinarily not grant a writ of mandamus.” *Campanioni v. Barr*, 962 F.2d 461, 464 (5th Cir. 1992). Moreover, our mandamus authority does not extend to directing a district court to reconsider a ruling in a closed case. *Cf. Roche v. Evaporated Milk Ass’n*, 319 U.S. 21, 25 (1943) (limiting mandamus authority to issuance of writs “in aid of a jurisdiction already acquired by appeal” or “to those cases which are within [our] appellate jurisdiction although no appeal has been perfected”).

Anaya does not direct us to, nor does research reveal, any currently pending district court proceeding in which he has challenged his conviction or sentence. In his now closed direct appeal, this court affirmed the district court’s judgment and thereafter denied Anaya a COA to appeal the district court’s denial of § 2255 relief. Anaya’s remedies, both of which he pursued, were to appeal from his conviction and to move for relief under § 2255. Anaya is not entitled to the extraordinary remedy of a writ of mandamus. *See In re Willy*, 831 F.2d at 549.

The petition for a writ of mandamus is DENIED.