

FILED: June 6, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1139
(3:20-cr-00038-GMG-RWT-7)

In re: DOMINIC ASQUITH, a/k/a Dom

Petitioner

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge King, Judge Quattlebaum, and Senior Judge Floyd.

For the Court

/s/ Patricia S. Connor, Clerk

FILED: April 25, 2023

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No. 23-1139
(3:20-cr-00038-GMG-RWT-7)

In re: DOMINIC ASQUITH, a/k/a Dom

Petitioner

J U D G M E N T

In accordance with the decision of this court, the petition for writ of prohibition is denied.

/s/ PATRICIA S. CONNOR, CLERK

PER CURIAM:

Dominic Asquith petitions for a writ of prohibition, asking this court to order the district court to release him from his pretrial detention facility and to place him on home confinement. We conclude that Asquith is not entitled to the relief he seeks.

A writ of prohibition is a "drastic and extraordinary remedy which should be granted only when the petitioner has shown h[er] right to the writ to be clear and undisputable and that the actions of the court were a clear abuse of discretion." *In re Vargas*, 723 F.2d 1461, 1468 (10th Cir. 1983). A writ of prohibition may not be used as a substitute for appeal. *Id.*; see *United States v. Foster*, 296 F.2d 249, 251 (4th Cir. 1961). The relief sought by Asquith is not available by way of prohibition. Accordingly, we deny Asquith's petition and all pending motions. 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

UNPUBLISHED

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

No. 23-1139

In re: DOMINIC ASQUITH, a/k/a Dom,

Petitioner.

On Petition for Writ of Prohibition to the United States District Court for the Northern
District of West Virginia, at Martinsburg. (3:20-cr-00038-GMG-RWT-7)

Submitted: April 20, 2023

Decided: April 25, 2023

Before KING and QUATTLEBAUM, Circuit Judges, and FLOYD, Senior Circuit Judge.

Petition denied by unpublished per curiam opinion.

Dominic Asquith, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

DOMINIC ASQUITH - 3655698

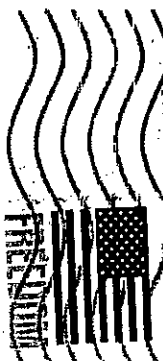
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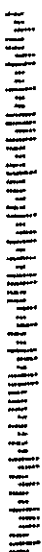
U.S. DISTRICT COURT-WVND
MARTINSBURG, WV 25401

CLERK OF COURTS

217 W. KING ST.

MARTINSBURG, WV 25401

25401-328699



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG

UNITED STATES OF AMERICA,

Plaintiff,

v.

DOMINIC ASQUITH,

Defendant.

Case No.: 3:20-CR-38-7
(GROH)

ORDER DENYING PRO SE MOTION [ECF No. 1067]

Pending before this Court is Defendant's *pro se* Motion [ECF No. 1067] for Bond, filed on January 10, 2023. Harry A. Smith III, Esq., is the third attorney to represent Defendant in this matter, having commenced his court-appointed representation on April 27, 2022. ECF No. 717.

While a defendant has a Sixth Amendment right to be represented by an attorney, a defendant has no right to act as co-counsel, which has been attempted here with the filing of this *pro se* motion. United States v. Tarantino, 846 F.2d 1384, 1420 (D.C. Cir.), cert. denied, 488 U.S. 867 (1988). It is within the sound discretion of this Court to allow a defendant to assume some of his lawyer's functions, that is, to engage in hybrid representation. See United States v. LaChance, 817 F.2d 1491 (11th Cir.), cert. denied, 484 U.S. 928 (1987). However, hybrid representation should be permitted only where a defendant has made a showing of some special need to act as co-counsel. United States v. West, 877 F.2d 281 (4th Cir.), cert. denied, 493 U.S. 959 (1989).

Having reviewed the Motion further, this Court finds that Defendant has not made a sufficient showing that it is necessary for Defendant to act as co-counsel in this matter in order to be effectively represented. If Defendant's attorney, after investigation, deems it

necessary to file a motion on Defendant's behalf, the Court will consider that motion.

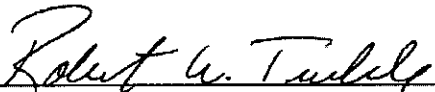
Accordingly, it is hereby

ORDERED that the Defendant's *pro se* Motion [ECF No. 1067] be **DENIED**.

Further, the Court grants leave to the Defendant's attorney to file a motion on the Defendant's behalf, if, after investigation he deems such a motion appropriate.

The Clerk of the Court is directed to provide a copy of this Order to parties who appear *pro se* and all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: 1/11/2023


ROBERT W. TRUMBLE
UNITED STATES MAGISTRATE JUDGE

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