

UNPUBLISHED**UNITED STATES COURT OF APPEALS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

No. 23-1624

In re: KENNETH ROSHAUN REID,

Petitioner.

On Petition for Writ of Mandamus to the United States District Court for the District of South Carolina, at Rock Hill. (0:04-cr-00353-CMC-1)

Submitted: July 17, 2023

Decided: August 10, 2023

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

Petitions denied by unpublished per curiam opinion.

Kenneth Roshaun Reid, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth Roshaun Reid petitions for a writ of mandamus, seeking an order from this court directing the district court to issue a ruling on his motions vacated in a prior appeal and ordering his release from custody. We conclude that Reid 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. Ct.*, 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 and “has no other adequate means to attain the relief [he] desires.” *Murphy-Brown*, 907 F.3d at 795 (cleaned up). 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 Reid is not available by way of mandamus. Accordingly, we deny the petitions for a writ of mandamus. 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.

PETITIONS DENIED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

United States of America,

v.

Kenneth Roshaun Reid,

Defendant.

Cr. No. 0:04-353-CMC

Order

This matter is before the court on two additional *pro se* motions by Defendant, for resentencing and evidentiary hearing (ECF No. 1062) and to apply the Fair Sentencing Act of 2010 to his case (ECF No. 1063). Both motions request a hearing or opportunity to be heard.

However, Defendant has two matters pending in the Fourth Circuit Court of Appeals, and such matters remain pending. Case Nos. 22-7230, 22-2286. In a current petition to the Fourth Circuit, Defendant raises issues including dismissal of Count 1 of the Indictment because no drug quantity was found, and application of the Fair Sentencing Act to Count 1. No. 22-2286 at ECF No. 2 (4th Cir. Dec. 16, 2022).

While an appeal is pending, the district court does not have jurisdiction to decide issues involved in the appeal. *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982) (“The filing of a notice of appeal is an event of jurisdictional significance – it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.”); *United States v. Christy*, 3 F.3d 765, 767 (4th Cir. 1993) (“Because the district court’s judgment was final, when the notice of appeal was filed it divested the district court of its jurisdiction over the case and conferred jurisdiction upon this Court.”).

The motions pending in this court are related and inextricably linked to the petitions filed in the Court of Appeals. Therefore, Defendant's current motions are dismissed without prejudice as this court is without jurisdiction to consider them.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
January 5, 2023

FILED: October 23, 2023

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In re: KENNETH ROSHAUN REID

Petitioner

ORDER

The court denies the petition for rehearing.

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

For the Court

/s/ Nwamaka Anowi, Clerk