**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 19-2016**

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In re: DAVID LEE SMITH,

Petitioner.

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On Petition for Writ of Mandamus. (5:13-ct-03251-FL)

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Submitted: December 17, 2019 Decided: December 19, 2019

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Before KING, FLOYD, and HARRIS, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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David Lee Smith, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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 petition as a Fed. R. Crim. P. 35(b) motion for reduction of sentence and reduce his North Carolina state criminal sentences. Smith also requests that this court order the warden of the institution in which he is confined to release him from prison without conditions. Smith further requests that this court construe his petition as requesting a declaratory judgment finding certain North Carolina state statutes unconstitutional and issue a judgment repealing and dissolving those statutes. 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). 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, although we grant leave to proceed in forma pauperis, we deny the petition 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.

*PETITION DENIED*