UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1720

In re: TERRANCE LAMONT MOORE,

Petitioner.

On Petition for Writ of Audita Querela.
(4:98-cr-00013-H-1)

Submitted: November 2, 2012 Decided: November 7, 2012

Before WILKINSON, KEENAN, and THACKER, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Terrance Lamont Moore, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

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PER CURIAM:

Terrance Lamont Moore has filed a petition for a writ of audita querela in this court, pursuant to the All Writs Act, 28 U.S.C. § 1651(a) (2006), seeking to challenge his criminal convictions for armed bank robbery. Moore alleges that he has been denied relief under 28 U.S.C.A. § 2255 (West Supp. 2012). A writ of audita querela is not available to a petitioner when other avenues of relief are available, such as a motion to vacate under § 2255. United States v. Torres, 282 F.3d 1241, 1245 (10th Cir. 2002); United States v. Johnson, 962 F.2d 579, 582 (7th Cir. 1992) (explaining that audita querela may not be invoked by a defendant challenging the legality of his sentence who could otherwise raise that challenge under § 2255). The fact that Moore cannot proceed under § 2255 unless he obtains authorization from this court to file a successive motion does not alter this conclusion. United States v. Valdez-Pacheco, 237 F.3d 1077, 1080 (9th Cir. 2000) ("We agree with our sister circuits . . . that a federal prisoner may not challenge a conviction or a sentence by way of a petition for a writ of audita querela when that challenge is cognizable under § 2255.").

Accordingly, we grant Moore's motion to supplement his petition and deny his petition for a writ of audita querela. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED