

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 06-4456

IN RE: ASTARTE DAVIS-RICE,
Petitioner

On a Petition for Writ of Mandamus from the
District Court of the Virgin Islands
(Related to Civ. No. 05-cv-00118)

Submitted Under Rule 21, Fed. R. App. Pro.
November 22, 2006

Before: MCKEE, FUENTES AND ROTH, CIRCUIT JUDGES

(Filed: April 16, 2007)

OPINION

PER CURIAM.

Petitioner Astarte Davis-Rice asks that we issue a writ of mandamus compelling the District Court of the Virgin Islands to order her immediate release from federal prison and expungement of her criminal record. Davis-Rice appears to argue that, due to violations of the Uniform Commercial Code by the Government during the course of her current litigation, she should be released from prison and her conviction overturned.

Mandamus is a drastic remedy available only in the most extraordinary of situations in response to an act amounting to a judicial usurpation of power. In re Nwanze, 242 F.3d 521, 524 (3d Cir. 2001). A petitioner must show that she has a clear and indisputable right to issuance of the writ, and it will issue only when the party seeking the writ can show that she has no other adequate means to obtain the relief requested. In re Flat Glass Antitrust Litigation, 288 F.3d 83, 91 (3d Cir. 2002).

A § 2255 motion is the presumptive means for a federal prisoner to challenge his conviction or sentence. Okereke v. United States, 307 F.3d 117, 120 (3d Cir. 2002). Davis-Rice's mandamus petition directly challenges her conviction and sentence and thus should be brought under § 2255. Because it appears that Davis-Rice has another adequate means to pursue her relief, we will deny her petition.