

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

NO. 07-2040

IN RE: MARC RAMIREZ  
Petitioner

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On a Petition for Writ of Mandamus from the  
United States District Court for the Middle District of Pennsylvania  
(Related to M.D. Pa. Civ No. 07-cv-00050)

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Submitted Under Rule 21, Fed. R. App. P.  
April 20, 2007  
Before: CHIEF JUDGE SCIRICA, WEIS and GARTH, CIRCUIT JUDGES.  
Filed: May 30, 2007

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OPINION

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PER CURIAM.

Pro se petitioner Marc Ramirez seeks a writ of mandamus to compel the United States District Court for the Middle District of Pennsylvania to reach an immediate decision on his petition for a writ of habeas corpus.

Petitioner filed his habeas petition on January 10, 2007. On February 5, 2007, the Respondent filed his answer. Petitioner then filed a traverse on February 22,

2007. On April 5, 2007, Petitioner filed this petition seeking a writ of mandamus.

The remedy of mandamus is reserved for the most extraordinary of circumstances. DeMasi v. Weiss, 669 F.2d 114, 117 (3d Cir. 1982). To ensure that mandamus relief is sparingly granted, a petitioner seeking a writ of mandamus must demonstrate that no other adequate means are available to obtain the desired relief and that the right to issuance of the writ is “clear and indisputable.” Allied Chem. Corp. v. Daifon, Inc., 449 U.S. 33, 35 (1980) (quoting Bankers Life & Cas. Co. v. Holland, 346 U.S. 379, 384 (1953) (quoting United States v. Duell, 172 U.S. 576, 582 (1899))). Here, Petitioner seeks an order directing the District Court to rule immediately on his petition for writ of habeas corpus. Petitioner has not demonstrated that his right to such a ruling is “clear and indisputable.”

As we have previously held, the management of its docket is committed to the sound discretion of the district court. In re Fine Paper Antitrust Litig., 685 F.2d 810, 817 (3d Cir. 1982). When a matter is discretionary, it cannot typically be said that a litigant’s right is “clear and indisputable.” Allied Chem. Corp., 449 U.S. at 35-36. Nonetheless, we have held that a writ of mandamus may be warranted where undue delay is tantamount to a failure to exercise jurisdiction. Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996).

Petitioner has not demonstrated undue delay in this case. Petitioner’s habeas petition was not ripe for disposition until February 22, 2007, when he filed his traverse. When Petitioner filed his mandamus petition, only six weeks had elapsed.

Under such circumstances, we cannot say that there has been any delay in this habeas proceeding. We trust that the District Court, in light of the claims involved in this habeas petition, will respond to the parties' filings and reach a decision in an expeditious manner.

Accordingly, we will deny the petition for a writ of mandamus.

Petitioner's motion to expedite the consideration of his mandamus petition is denied as moot.