

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 07-3098

IN RE: JAMES RILEY,
Petitioner

On a Petition for Writ of Mandamus
(Related to Civ. No. 06-cv-0001)

Submitted Under Rule 21, Fed. R. App. P. or For Possible
Dismissal Due to a Jurisdictional Defect
August 2, 2007

Before: BARRY, AMBRO and FISHER, CIRCUIT JUDGES.

(Filed: August 15, 2007)

OPINION

PER CURIAM

Pro se petitioner James Riley seeks a writ of mandamus to compel this Court to recall an order dismissing his appeal at C.A. No. 07-2257.

Riley was notified in his appeal at C.A. No. 07-2257 that he was required to file a motion demonstrating imminent danger because of his “three-striker status.” Riley failed to file the required motion, and the Clerk issued an order dismissing the appeal for failure to timely prosecute. See LAR 27.6. Riley filed a motion to re-open, arguing that he did

not have three strikes because the dismissal of his complaint in the District Court and his dismissal of his appeal with this Court were from the same underlying action, and, therefore, only counted as one strike. The Clerk denied his motion to re-open, explaining that the dismissal of his complaint and the dismissal of his appeal are separate strikes pursuant to 28 U.S.C. 1915(g). See LAR 27.6. Riley, in an attempt to again re-open C.A. No. 07-2257, has filed this petition for a writ of mandamus.

The Federal Rules of Appellate Procedure do not provide for review of such a order by filing a writ of mandamus. An appellant may request review of a judgment entered by a court of appeals by filing a petition for writ of certiorari with the Supreme Court in accordance with its rules. See 28 U.S.C. § 1254. Accordingly, we will deny the petition for a writ of mandamus.

To the extent that Riley is seeking review, pursuant to LAR 27.6, of the Clerk's orders in C.A. 07-2257, we have reviewed the underlying orders and find no error.