

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-1698

IN RE: JANET FRANCIS,

Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of New Jersey
(Related to Civ. No. 05-cv-04882)

Submitted Under Rule 21, Fed. R. App. P.
March 22, 2007

Before: BARRY, AMBRO and FISHER, Circuit Judges

(Filed: April 17, 2007)

OPINION

PER CURIAM

Janet Francis, a former member of the United States Army National Guard, filed a mandamus petition with this Court on March 8, 2007. She argues that she was discharged from the Guard in violation of numerous Constitutional rights and seeks an order requiring the Guard to reinstate her.

Mandamus is a drastic remedy granted only in extraordinary cases. See In

re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378 (3d Cir. 2005). To prevail, the petitioner must establish that she has “no other adequate means” to obtain relief and that she has a “clear and indisputable” right to issuance of the writ, and the reviewing court must determine that the writ is appropriate under the circumstances. Id. at 378-79. Mandamus cannot be used as a substitute for appeal. See, e.g., Id. At 372.

In 2005, Petitioner filed a civil suit in the United States District Court seeking reinstatement to the Guard and money damages based on essentially the same facts alleged in her mandamus petition. D.N.J. Civ. No. 05-cv-04882. The District Court dismissed her complaint, and Francis filed an appeal, which is currently pending before this Court. C.A. No. 06-4246. This pending appeal clearly provides an adequate means for her to seek the relief requested in her mandamus petition. Therefore, the petition for a writ of mandamus is denied.