

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 07-3128

IN RE: GEORGE CHUKWUEMEKA OBI, Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the Middle District of Pennsylvania
(Related to M.D. Pa. Cr. No. 06-cr-00325)

Submitted Under Rule 21, Fed. R. App. P.
August 9, 2007

Before: MCKEE, FUENTES AND VAN ANTWERPEN, CIRCUIT JUDGES

(Filed: September 13, 2007)

OPINION

PER CURIAM

George Chukwuemeka Obi petitions this Court to issue a writ of mandamus ordering the United States District Court for the Middle District of Pennsylvania to terminate the services of his defense attorney in an ongoing criminal action against Obi. We will deny the petition for writ of mandamus.

On September 26, 2006, a federal indictment was returned against Obi in the Middle District of Pennsylvania. See United States v. Obi, Cr. No. 06-cr-00325. He was charged for willfully failing and refusing to make a timely application in good faith

for travel and other documents necessary to effectuate his deportation in violation of 8 U.S.C. § 1253(a)(1)(B). The case was assigned to United States District Judge A. Richard Caputo. Federal Public Defender Hervery B.O. Young, Esq. was appointed to represent Obi. This criminal action is still ongoing.

Obi filed this petition for writ of mandamus on July 18, 2007, in this Court. In the petition, Obi requests this Court to order Judge Caputo to terminate Young's legal representation so that Ms. Amakari, of the Nigerian Consulate, can represent him. In support of his petition, Obi cites to the Vienna Convention on Consular Relations, Apr. 24, 1963, art. 36, 21 U.S.T. 77.¹

Mandamus is an appropriate remedy only in the most extraordinary of situations. Sporck v. Peil, 759 F.2d 312, 314 (3d Cir. 1985). To justify such a remedy, a petitioner must show that he has (i) no other adequate means of obtaining the desired relief and (ii) a "clear and indisputable" right to issuance of the writ. See Haines v. Liggett Group, Inc., 975 F.2d 81, 89 (3d Cir. 1992)(citations omitted). In this case, a competency hearing was held on July 26, 2007, before Judge Caputo. Obi's legal representation was also apparently discussed at this hearing. We conclude that Obi has not shown a "clear and indisputable" right to the issuance of the writ. Specifically, Obi has not shown that the Nigerian Consulate has agreed to arrange for his legal

¹ Article 36, section 1(c) of the Vienna Convention on Consular Relations states that "consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation."

representation.² Therefore, the petition for writ of mandamus is denied.

² For the purposes of this opinion, we will assume, without deciding, that Article 36 of the Vienna Convention on Consular Relations granted Obi enforceable rights which could be invoked in judicial proceedings. See Sanchez-Llamas v. Oregon, 126 S. Ct. 2669, 2677-78 (2006).