

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 11-4516

In re: FREDDY RIVERA-MARRERO,
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. Civ. No. 10-CV-02489)

Submitted Pursuant to Rule 21, Fed. R. App. P.
January 26, 2012
Before: SLOVITER, FISHER AND NYGAARD, Circuit Judges

(Opinion filed: February 2, 2012)

OPINION

PER CURIAM

Freddy Rivera-Marrero seeks a writ of mandamus, pursuant to 28 U.S.C. § 1651, directing the United States District Court for the Middle District of Pennsylvania to rule on his habeas corpus petition.

An appellate court may issue a writ of mandamus on the ground that undue delay is tantamount to a failure to exercise jurisdiction. Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996). However, subsequent to the filing of this mandamus petition, the Magistrate Judge assigned to the case issued a Report and Recommendation recommending that the

habeas petition be denied. We are confident that the District Court will act on the recommendation without undue delay after the time for objections has expired. Thus, there is no need for this Court to compel the District Court to exercise its authority.

Roche v. Evaporated Milk Ass'n, 319 U.S. 21, 26 (1943).

For the foregoing reasons, the petition for a writ of mandamus will be denied.