

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 18-3644

IN RE: FRANCISCO LANZO,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of Delaware
(Related to Civ. No. 1:16-cv-00449)

Submitted Pursuant to Rule 21, Fed. R. App. P.
December 20, 2018
Before: CHAGARES, RESTREPO and SCIRICA, Circuit Judges

(Opinion filed: January 23, 2019)

OPINION*

PER CURIAM

State prisoner Francisco Lanzo, proceeding pro se, seeks a writ of mandamus in connection with a habeas petition he filed in the District Court. For the reasons that follow, we will deny Lanzo's mandamus petition.

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

In June 2016, Lanzo filed a habeas petition pursuant to 28 U.S.C. § 2254 in the District Court. On November 29, 2018, Lanzo filed this mandamus petition, asking that we direct the District Court to rule on his habeas petition. Lanzo also put forth arguments as to why this Court should grant his habeas petition. A week later, on December 7, 2018, the District Court issued a memorandum and order, denying Lanzo's habeas petition.

Mandamus is a drastic remedy that is granted in only extraordinary cases. In re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378 (3d Cir. 2005). Petitioners must establish that they have “no other adequate means” to obtain the relief requested, and that they have a “clear and indisputable” right to issuance of the writ. Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996).

Lanzo does not meet the standard for mandamus relief. To the extent that Lanzo asks us to order the District Court to rule on his habeas petition, he has already received the relief that he requested. Furthermore, although he believes he was entitled to a different outcome in the District Court, mandamus may not be used as a substitute for appeal. See In re Diet Drugs Prods. Liab. Litig., 418 F.3d at 378-79.

Accordingly, we will deny Lanzo's petition.