

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-3297

IN RE: ALBERTO CONCEPCION,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of New Jersey
(Related to Crim. No. 99-cr-00753-001)

Submitted Pursuant to Rule 21, Fed. R. App. P.
November 14, 2019

Before: JORDAN, KRAUSE and MATEY, Circuit Judges

(Opinion filed: November 27, 2019)

OPINION*

PER CURIAM

Alberto Concepcion has filed a petition for a writ of mandamus. For the reasons below, we will deny the petition.

In his mandamus petition, filed on October 10, 2019, Concepcion seeks an order directing the District Court to act on a motion he filed on May 7, 2019. Concepcion also requests that the District Judge personally pay the filing fee for his mandamus petition.

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

By order entered October 16, 2019, the District Court denied Concepcion's motion. Thus, his request that we order the District Court to act on that motion is moot. See Blanciak v. Allegheny Ludlum Corp., 77 F.3d 690, 698-99 (3d Cir. 1996) ("If developments occur during the course of adjudication that . . . prevent a court from being able to grant the requested relief, the case must be dismissed as moot.").

With respect to his request that the District Judge personally pay his mandamus filing fee, we will deny the petition. As a precondition to the issuance of the writ, Concepcion must demonstrate, among other things, a clear and indisputable right to the relief sought. Kerr v. U.S. Dist. Court, 426 U.S. 394, 403 (1976). Concepcion cannot show a clear and indisputable right to have the District Judge pay his filing fee¹ or any other costs. She is entitled to judicial immunity as her handling of Concepcion's motion was clearly a judicial act. See Stump v. Sparkman, 435 U.S. 349, 355-56 (1978) (judges not civilly liable for judicial acts).

For the reasons above, we will deny the mandamus petition.

constitute binding precedent.

¹ In her order granting Concepcion's motion to proceed in forma pauperis, the Clerk did not direct that assessments be made from Concepcion's prison account. See 3d Cir. L.A.R. 24.1(c) (no assessment order if 28 U.S.C. § 1915(b) does not apply). Thus, no filing fee has been assessed.