

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 20-2319

IN RE: RAFAEL LORA,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the Middle District of Pennsylvania
(Related to Cr. No. 3-16-cr-00091-002)

Submitted Pursuant to Rule 21, Fed. R. App. P.
August 6, 2020
Before: JORDAN, KRAUSE and MATEY, Circuit Judges

(Opinion filed: August 19, 2020)

OPINION*

PER CURIAM

Pro se petitioner Rafael Lora has filed a petition for writ of mandamus requesting that we direct the United States District Court for the Middle District of Pennsylvania to rule on a number of motions he has filed in his criminal case. For the reasons detailed below, we will deny the 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 2016, Lora was charged with conspiring to possess with intent to distribute cocaine and possessing with intent to distribute cocaine. In May 2019, after lengthy pretrial proceedings and about a month before the start of trial, Lora pleaded guilty to conspiring to distribute 500 grams or more of cocaine. See ECF No. 243. The District Court accepted the plea and ordered a presentence report. See ECF No. 247.

In September 2019, Lora filed a motion to discharge his counsel and to withdraw the guilty plea. See ECF No. 263. He also filed several other pro se motions seeking similar relief. See ECF Nos. 264–67. In January 2020, the District Court granted Lora’s request to appoint new counsel and denied his pro se motions without prejudice to their being refiled by new counsel. See ECF No. 268.

Notwithstanding the appointment of new counsel, Lora continued to file pro se motions. He filed a motion to compel a response to a Freedom of Information Act request, see ECF No. 271, a motion for pretrial release, see ECF No. 273, and a motion to quash the indictment and withdraw his guilty plea, see ECF No. 274. On March 31, 2020, a Magistrate Judge denied the motion for pretrial release on the ground that the motion was required to be filed through counsel. See ECF No. 276.

Lora then filed a motion to dismiss his attorney and to proceed pro se, see ECF No. 278, and another motion for pretrial release, see ECF No. 279. On April 3, 2020, the Magistrate Judge once more denied the motion for release because Lora, rather than his attorney, had filed it. See ECF No. 280. Lora filed three more pro se motions, see ECF Nos. 281–83, his counsel filed a motion to withdraw, see ECF No. 284, and Lora filed a

notice of appeal to this Court as to the Magistrate Judge's order denying his motion for pretrial release, see ECF No. 285. On April 17, 2020, the Magistrate Judge held a hearing on counsel's motion to withdraw, and ultimately decided to hold the case in abeyance during the pendency of Lora's appeal. See ECF No. 290. Lora then resumed filing pro se motions. See ECF Nos. 291–95, 297–99. On July 29, 2020, we dismissed Lora's appeal for lack of jurisdiction. See C.A. No. 20-1791.

Currently pending before us is Lora's petition for a writ of mandamus. He asks us to order the District Court to rule on his numerous pending motions.

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). To demonstrate that mandamus is appropriate, a petitioner must establish that he has “no other adequate means” to obtain the relief requested and a “clear and indisputable” right to issuance of the writ. Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996). Because a district court has discretion in managing the cases on its docket, see In re Fine Paper Antitrust Litig., 685 F.2d 810, 817 (3d Cir. 1982), mandamus relief is warranted only when a district court's “undue delay is tantamount to a failure to exercise jurisdiction,” Madden, 102 F.3d at 79.

Lora is not entitled to mandamus relief. As our account of the procedural history above demonstrates, the District Court has been consistently ruling on Lora's sundry motions. While there has been some delay while the District Court waited for us to dispose of Lora's appeal, we have recently dismissed that appeal, and we are confident that the

District Court will now rule on Lora’s motions in a timely manner. We therefore decline to find that any delay in this case is “tantamount to a failure to exercise jurisdiction.” Id.

Accordingly, we will deny Lora’s mandamus petition.