

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-1698

IN RE: ABRAM OLIVER DEGARDEYN,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the Western District of Pennsylvania
(Related to W.D. Pa. Civ. No. 2:26-cv-00267)

Submitted Pursuant to Rule 21, Fed. R. App. P.
September 17, 2026
Before: KRAUSE, MATEY, and BOVE, *Circuit Judges*

(Opinion filed October 13, 2026)

OPINION*

PER CURIAM

Abram Oliver Degardeyn has filed a pro se petition for a writ of mandamus asking us to direct the United States District Court for the Western District of Pennsylvania to vacate its remand order and exercise jurisdiction over a state criminal matter which Degardeyn sought to remove to federal court. For the reasons that follow, 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.

On February 13, 2026, citing 28 U.S.C. §§ 1443 and 1455, Degardeyn filed a notice of removal in the District Court, seeking to remove criminal proceedings filed against him in the Pennsylvania Court of Common Pleas of Fayette County.¹ On February 24, 2026, after reviewing the notice of removal pursuant to 28 U.S.C. § 1455(b)(4), a Magistrate Judge issued a report and recommendation recommending that the District Court summarily remand the matter to the Court of Common Pleas. Degardeyn was advised that he could file written objections to the report and recommendation by March 13, 2026.

Thereafter, Degardeyn filed a document entitled “Mercury Protocol – Expanded Master Record of Federal, State, Administrative, and Auxiliary-Aid Interactions,” and a “Motion to Stay Proceedings and Notice of Jurisdictional Conflict.” The District Court liberally construed those filings as objections to the report and recommendation, and, after an independent review of the record, overruled the objections, adopted the report and recommendation as the opinion of the Court, and remanded the matter to the state court.

Degardeyn appealed, and his appeal remains pending. Degardeyn also filed a motion to vacate the District Court’s order, arguing that it was entered prematurely and prior to the expiration of the objection period. The District Court denied that motion on March 6, 2026. It observed that § 1455(b)(4) directs District Court’s to promptly

¹ Degardeyn was charged by information with two misdemeanor counts of Stalking – Repeatedly Commit Acts to Cause Fear, in violation of 18 P.S. § 2709.1 §§ A1. *See Commonwealth v. Degardeyn*, CP-26-CR-0002157-2025.

examine such removal notices, and noted that it “would have issued the same type of order remanding this criminal action ... had the case been assigned to the Court without the referral to the Magistrate Judge.”

On April 2, 2026, Degardeyn filed the mandamus petition now before us. A writ of mandamus is a “drastic remedy” that may be granted only in “extraordinary circumstances in response to an act amounting to a judicial usurpation of power.” *In re Diet Drugs Prods. Liab. Litig.*, 418 F.3d 372, 378 (3d Cir. 2005) (citation omitted). To demonstrate that mandamus is appropriate, a petitioner must establish that he has a “clear and indisputable” right to the issuance of the writ and that he has “no other adequate means” to obtain the relief desired. *Madden v. Myers*, 102 F.3d 74, 79 (3d Cir. 1996). Mandamus is not a substitute for an appeal. *Id.* at 77.

Degardeyn has not met this exacting standard, as he can and has challenged the District Court’s remand order through direct appeal. Because that appeal provides Degardeyn with an opportunity to obtain the desired relief, a writ of mandamus is not warranted. *See Helstoski v. Meanor*, 442 U.S. 500, 506 (1979) (explaining that a court will not issue a writ of mandamus where the petitioner “could readily have secured review of the ruling complained of and all objectives now sought, by direct appeal”). In any event, Degardeyn has not established that he has a clear and indisputable right to remove his state criminal proceedings to the District Court under the narrow circumstances provided by 28 U.S.C. § 1443. *See Davis v. Glanton*, 107 F.3d 1044, 1047 (3d Cir. 1997) (discussing removal under § 1433(1)); *City of Greenwood, Miss. v. Peacock*, 384 U.S. 808, 824 (1966) (discussing removal under § 1443(2)).

Accordingly, we will deny the petition for a writ of mandamus. In light of our disposition, Degardeyn's motion for the appointment of counsel is denied. *See Tabron v. Grace*, 6 F.3d 147, 155 (3d Cir. 1993).