

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-2617

IN RE: JAMES W. RILEY,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of Delaware
(Related to Civ. Nos. 1:26-cv-00309 & 1:04-cv-01435)

Submitted Pursuant to Rule 21, Fed. R. App. P.
September 3, 2026
Before: BIBAS, PHIPPS, and NYGAARD, *Circuit Judges*

(Opinion filed: September 23, 2026)

OPINION*

PER CURIAM

James Riley, a Delaware state prisoner, petitions this Court for a writ of mandamus pursuant to 28 U.S.C. § 1651. For the following reasons, we will deny the mandamus petition.

Section 1651 confers jurisdiction on this Court to issue a writ of mandamus “in aid of” our jurisdiction. 28 U.S.C. § 1651. Mandamus provides a “drastic remedy that a

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

court should grant only in extraordinary circumstances in response to an act amounting to a judicial usurpation of power.” *Hahnemann Univ. Hosp. v. Edgar*, 74 F.3d 456, 461 (3d Cir. 1996) (citations and internal quotation marks omitted). To justify the Court’s use of this extraordinary remedy, Riley must show that he has a clear and indisputable right to the writ and no other adequate means to obtain the relief desired. *Haines v. Liggett Grp. Inc.*, 975 F.2d 81, 89 (3d Cir. 1992). He cannot make this requisite showing.

In his mandamus petition, Riley claims that prison officials are denying him medical treatment for prostate cancer. He maintains that the District Court will not issue a preliminary injunction to “force” officials to provide the medical treatment. Mandamus Pet. at 3. Riley also claims that prison officials are detaining him “on a [v]oid [j]udgment of conviction and sentence for felony murder,” while “intentionally denying him medical treatment for prostate cancer to cause his death.” *Id.* For relief, Riley seeks both an order directing the District Court to issue a preliminary injunction requiring prison officials to provide him medical treatment for prostate cancer and an order “to stop” the District Court from detaining him on a void conviction and sentence. *Id.* at 2.

To the extent that Riley seeks an order directing medical treatment for prostate cancer, he has not shown an indisputable right to the writ. Putting any other issues aside, as Riley has admitted in the District Court, and as the District Court explained in denying his motion for a preliminary injunction, he has not been diagnosed with prostate cancer. *See Riley v. Taylor*, D. Del. Civ. No. 1:26-cv-00309; ECF Nos. 2 at 6; 30 at 5, 8. Insofar as Riley is seeking an order directing the District Court to order prison officials to provide medical testing for prostate cancer, the District Court denied that request for

relief, *see id.*, ECF No. 39, and mandamus will not lie where an appeal may be had. *In re Nwanze*, 242 F.3d 521, 524 (3d Cir. 2001) (“[G]iven its drastic nature, a writ of mandamus should not be issued where relief may be obtained through an ordinary appeal.”) (citation omitted).

To the extent that Riley seeks relief related to his conviction and sentence, he can seek permission to file another petition pursuant to 28 U.S.C. § 2254. He cannot use mandamus to evade the gatekeeping requirements of 28 U.S.C. § 2244. *Cf. Massey v. United States*, 581 F.3d 172, 174 (3d Cir. 2009) (per curiam). Moreover, Riley challenged his conviction as void in a motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b)(4), filed in his habeas proceedings. *See Riley v. Emig*, D. Del. Civ. No. 1:04-cv-01435, ECF No. 74. The District Court denied the Rule 60(b) motion, and Riley filed an appeal, which is pending with this Court. *See id.*, ECF Nos. 77, 80. Again, Riley may not use mandamus as a substitute for appeal.

Accordingly, we will deny the petition for a writ of mandamus.¹

¹ Riley’s motion to stay the District Court proceedings and motion to compel a ruling on the mandamus petition are denied.