

NOT PRECEDENTIAL
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-2872

IN RE: FRANK MICHAEL MONTE, III,
Petitioner

On a Petition for Writ of Mandamus to the
United States District Court for the District of New Jersey
(Related to D.N.J. Crim. No. 3:19-cr-00821-001
and D.N.J. Civ. No. 3:26-cv-09115)

Submitted Pursuant to Rule 21, Fed. R. App. P.
August 13, 2026

Before: RESTREPO, PORTER, and MONTGOMERY-REEVES, *Circuit Judges*

(Opinion filed August 21, 2026)

OPINION*

PER CURIAM

Frank Michael Monte, III, is currently serving a federal term of supervised release at a community corrections center in Newark, New Jersey. He has filed a mandamus petition and an amended petition seeking relief relating to two District Court proceedings assigned to the same District Judge—his underlying criminal case at D.N.J. Crim. No.

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

3:19-cr-00821-001, and a habeas proceeding under 28 U.S.C. § 2241 at D.N.J. Civ. No. 3:26-cv-09115, in which he seeks release from the center. Mandamus is a drastic and extraordinary remedy that we have the discretion to grant only when, inter alia, the petitioner has a clear and indisputable right to relief and no other adequate way to obtain it. *See In re McGraw-Hill Glob. Educ. Holdings LLC*, 909 F.3d 48, 56 (3d Cir. 2018); *In re Pressman-Gutman Co.*, 459 F.3d 383, 398-99 (3d Cir. 2006). We will deny Monte's petition because it does not satisfy this standard.

Monte requests three primary forms of relief, which we reorder for ease of discussion. His first request is for an order directing the District Court to entertain his pro se filings. Monte bases this request on an order in his criminal case in which the court initially declined to consider his pro se requests to modify the terms of his supervised release. (D.N.J. Crim. No. 3:19-cr-00821-001, ECF No. 300.) The court initially declined to consider those requests because it previously appointed standby counsel for purposes of a hearing on the revocation of supervised release. (ECF No. 279.) But just two days later, the court considered Monte's pro se requests and denied them on the merits. (ECF No. 302.) The court later entered an order expressly stating its understanding that Monte is proceeding pro se. (ECF No. 311.) And in Monte's § 2241 proceeding, it appears that the court will consider Monte's pro se petition because the court has ordered the Government to respond to it. (D.N.J. Civ. No. 3:26-cv-09115, ECF No. 3.) Thus, we see no basis for relief in this regard.

Monte's second request is for an order requiring the court to transfer his § 2241 proceeding from the Trenton Division where the court docketed it to the Newark Division where his community corrections center is located. We deny this request for two reasons.

First, Monte has an alternative means of seeking this relief because he can file a motion to transfer venue with the District Court under 28 U.S.C. § 1404. Monte argues that he cannot do so because the court will not consider his pro se filings, but there is no basis for that argument as discussed above.

Second, Monte also has not shown a clear and indisputable right to this relief. *See In re McGraw-Hill Glob.*, 909 F.3d at 56-57. Monte's sole argument on this point is that he is confined within the District Court's Newark Division and that jurisdiction is proper under § 2241 only in the District of his confinement. Monte is right about that, *see Rumsfeld v. Padilla*, 542 U.S. 426, 442-44 (2004), but the *District* of his confinement is the District of New Jersey. Monte has not cited any authority requiring assignment of his petition to any particular *Division* within that District, and we are aware of none. To the contrary, "there no longer is any statutory requirement that venue in federal civil cases be laid in a particular division within a district." 14D Charles Alan Wright et al., *Federal Practice and Procedure* § 3809 (4th ed. 2026). And although local rules or standing orders can require assignment to a certain Division, *see id.*, Monte has not cited and we have not located anything requiring such assignment here.

Monte's third request is for an order directing the District Judge to recuse himself from these proceedings. We deny this request too for two reasons.

First, Monte once again has an alternative means of seeking this relief because he has filed still-pending motions requesting the District Judge’s recusal in both his criminal case¹ and his § 2241 proceeding. *See In re Kensington Int’l Ltd.*, 353 F.3d 211, 224 (3d Cir. 2003) (explaining that the mandamus standard “cannot be met where a motion seeking the district judge’s disqualification—the same relief sought in the mandamus petition—is pending in the district court”).

Second, Monte once again has not shown a clear and indisputable right to relief. He argues that recusal is required under 28 U.S.C. § 455 because the District Judge (1) imposed a “gag order” by refusing to consider his pro se filings, and (2) is wrongfully proceeding with the § 2241 case in the absence of jurisdiction. But there is no basis for these arguments as discussed above, and we see no other circumstance requiring disqualification. In so noting, we neither constrain nor express any opinion on the District Judge’s discretion to consider Monte’s requests for his recusal in the future.

For these reasons, we will deny Monte’s mandamus petition. Monte’s motions and other requests for relief are denied as well.

¹ Monte filed this motion after the District Court denied his motions to modify the terms of his supervised release and after Monte appealed that ruling at C.A. No. 26-2501. The court later entered an order declining to rule on the recusal motion while that appeal is pending. Monte argues that the court erred in doing so, but we see nothing pending in Monte’s criminal case that might require any substantive action at this time. We are confident that the court will rule on Monte’s motion if and when warranted in the future.