

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 13-1824

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IN RE: DAVID GEORGE LUSICK,  
Petitioner

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On a Petition for Writ of Mandamus from the  
United States District Court for the Eastern District of Pennsylvania  
(Related to Civ. No. 12-cv-05150 )

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Submitted Pursuant to Rule 21, Fed. R. App. P.  
May 9, 2013  
Before: AMBRO, SMITH and CHAGARES, Circuit Judges

(Opinion filed: June 10, 2013)

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OPINION

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PER CURIAM

David Lusick has filed a petition for a writ of mandamus, seeking that we order the United States District Court for the Eastern District of Pennsylvania to consider a complaint he says he filed on September 1, 2012—a complaint that the District Court said it did not receive.<sup>1</sup> He also asks us to order that Court to serve and consider some of his other filings, and reassign a different judge to his District Court proceedings.

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<sup>1</sup> Although it is not clear whether the District Court ever received Lusick's complaint in 2012, we would remind the District Court that if it denies an applicant's motion to

We will deny Lusick's petition. Since the time Lusick filed his mandamus petition, he has complied with the District Court's order to file a new complaint. The District Court has also randomly reassigned the proceedings to another judge. Thus, those requests are moot. We are confident that the District Court will also serve and/or consider Lusick's other filings, to the extent it deems appropriate. If Lusick is unhappy with any of the District Court's rulings, he can raise those issues on appeal. See Cheney v. U.S. Dist. Ct., 542 U.S. 367, 380-81 (2004) (mandamus is not a substitute for appeal).<sup>2</sup>

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proceed in forma pauperis, it should retain the unfiled complaint until any appeals are complete.

<sup>2</sup> Lusick's remaining motions in this Court are denied.