

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 13-3650

IN RE: HARVEY PATRICK SHORT,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the Eastern District of Pennsylvania
(Related to Civ. No. 2-13-cv-02236)

Submitted Pursuant to Rule 21, Fed. R. App. P.
October 10, 2013

Before: SMITH, HARDIMAN and VAN ANTWERPEN, Circuit Judges

(Opinion filed: October 22, 2013)

OPINION

PER CURIAM

On April 25, 2013, Harvey Patrick Short filed a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, in the District Court. The petition was referred to a Magistrate Judge on May 10, 2013. The District Attorney was granted an extension of time to file an answer, which is due on or before October 25, 2013.

On September 5, 2013, Short filed the present petition for a writ of mandamus asking us to compel the District Court to adjudicate his habeas petition. Mandamus is a

drastic remedy available in only the most extraordinary circumstances. In re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378 (3d Cir. 2005). Although we may issue a writ of mandamus when a district court's "undue delay is tantamount to a failure to exercise jurisdiction," Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996), there has been no such delay here. The District Attorney has yet to respond to Short's habeas petition. Once that response is filed, we are confident that the District Court will rule on Short's habeas petition in a timely manner. Accordingly, we will deny the mandamus petition.