

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-2915

IN RE: JOSEPH CAMMARATA,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the Eastern District of Pennsylvania
(Related to E.D. Pa. Civ. No. 2-23-cv-02238)

Submitted Pursuant to Rule 21, Fed. R. App. P.

Before: HARDIMAN, MONTGOMERY-REEVES, and NYGAARD, Circuit Judges

(Opinion filed: December 12, 2023)

OPINION*

PER CURIAM

Joseph Cammarata is a federal prisoner proceeding pro se. In October 2022, a jury in the United States District Court for the Eastern District of Pennsylvania returned a verdict finding Cammarata guilty of several counts of conspiracy, wire fraud, and conspiracy to commit money laundering in connection with a scheme to defraud

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

securities class action claims administrators (and the parties to the underlying settlements) out of more than \$40 million. He was sentenced to 120 months' imprisonment and was ordered to pay over \$31 million in restitution. Cammarata's counseled direct appeal from his convictions and sentences is currently pending in this Court.

In June 2023, Cammarata filed a purported petition pursuant to 28 U.S.C. § 2241 in the District Court challenging the validity of his convictions and sentences. See E.D. Pa. Civ. No. 2-23-cv-02238. The District Court determined that Cammarata was required to bring his claims via 28 U.S.C. § 2255 rather than § 2241 and repeatedly instructed him to file his petition on the standard form for a § 2255 motion. Instead, Cammarata filed a "Motion to File Default on 28 U.S.C. § 2241 Petition" in which he asserted that the District Court had "default[ed] on the habeas" by failing to "meet the required time prescription." Mot. 2, ECF No. 10.

The Securities and Exchange Commission (SEC) also brought a parallel civil action against Cammarata. In August 2023, after the conclusion of the criminal trial, the District Court granted summary judgment to the SEC. See E.D. Pa. Civ. No. 2:21-cv-04845, ECF Nos. 319–20. The issue of damages remains ongoing.

In October 2023, while his "Motion to File Default" was still pending before the District Court in the habeas matter, Cammarata filed this mandamus petition asking us to compel the District Court to rule on the motion for default or, alternatively, grant his

§ 2241 petition and release him from custody. He also raised various challenges to his criminal and civil proceedings. Shortly after Cammarata had filed his mandamus petition here, the District Court denied his motion for default and dismissed his § 2241 petition without prejudice to his ability to raise his claims in a § 2255 motion.

We will deny the petition for a writ of mandamus. First, to the extent that Cammarata asks us to compel the District Court to rule on his motion for default and his § 2241 petition, the District Court has now done so. Second, mandamus is a “drastic remedy” reserved for “extraordinary circumstances,” In re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378 (3d Cir. 2005)—circumstances that are not present here. To justify our use of this extraordinary remedy, Cammarata must show that he has no other adequate means to obtain the relief desired. See Haines v. Liggett Group Inc., 975 F.2d 81, 89 (3d Cir. 1992). Cammarata cannot do so, as he can raise his challenges to both his criminal convictions and his civil judgment in direct appeals.¹ See Westinghouse Elec. Corp. v. Republic of Philippines, 951 F.2d 1414, 1422 (3d Cir. 1991); see also Helstoski v. Meanor, 442 U.S. 500, 506 (1979) (explaining that a court will not issue a writ of

¹ To the extent that Cammarata asserts that the District Judge is biased against him, we see no evidence of bias or any other reason why the judge should recuse himself from Cammarata’s case. See 28 U.S.C. § 455 (setting forth standards for recusal); Securacomm Consulting, Inc. v. Securacom Inc., 224 F.3d 273, 278 (3d Cir. 2000) (“We have repeatedly stated that a party’s displeasure with legal rulings does not form an adequate basis for recusal . . .”).

mandamus where the petitioner “could readily have secured review of the ruling complained of and all objectives now sought, by direct appeal”).

Accordingly, the mandamus petition will be denied.