

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 22-7471**

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ALFREDO BELTRAN LEYVA,

Plaintiff - Appellant,

v.

FEDERAL BUREAU OF PRISONS (BOP); MICHAEL CARVAJAL, individually and as the Director of the BOP; JAMES PETRUCCI, individually and as the Mid-Atlantic Regional Director of the BOP; CATRICIA HOWARD, individually and as an Assistant Director Corrections Program Division of the BOP; MICHAEL FACEY, individually and as a Hearing Officer of the BOP; LINDA GETER, individually and as the Chief of the Designation and Sentence Computation Center of the BOP; RICHARD HUDGINS, individually and as the Complex Warden-Hazelton of the BOP; STANLEY LOVETT, JR., individually and as the Complex Warden-Hazelton of the BOP; LIEUTENANT VINCENT CRUZ, individually and as a member of Special Investigative Services at USP Hazelton, BOP; JOHN/JANE DOE 1, 2, 3, 4 and 5, employees of the BOP,

Defendants - Appellees.

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Appeal from the United States District Court for the Northern District of West Virginia, at Wheeling. John Preston Bailey, District Judge. (5:22-cv-00142-JPB-JPM)

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Submitted: March 20, 2024

Decided: April 23, 2024

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Before KING and AGEE, Circuit Judges, and FLOYD, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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**ON BRIEF:** Linda George, LINDA GEORGE, ATTORNEY AT LAW, Hackensack, New Jersey, for Appellant. Morgan S. McKee, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Wheeling, West Virginia; Erin K. Reisenweber, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Martinsburg, West Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alfredo Beltran Leyva appeals from the district court's order granting summary judgment to Defendants\* and dismissing his amended civil action. Leyva challenges the grant of judgment to Defendants on his fourth cause of action requesting the issuance of a writ of mandamus against the Bureau of Prisons. Leyva argues he is entitled to mandamus relief and that the district court's ruling was premature, since it issued before the commencement of discovery. Upon review of the record and the parties' briefs, we find no abuse of discretion in the timing of the district court's decision. *See Shaw v. Foreman*, 59 F.4th 121, 128-29 (4th Cir. 2023).

We review de novo the district court's denial of the relief Leyva requested in his fourth cause of action. *See Smith v. CSRA*, 12 F.4th 396, 402 (4th Cir. 2021); *Marquez-Ramos v. Reno*, 69 F.3d 477, 479 (10th Cir. 1995). A plaintiff may be entitled to mandamus relief where he demonstrates "he has a clear and indisputable right to the relief sought" and "the responding party has a clear duty to do the specific act requested." *United States ex rel. Rahman v. Oncology Assocs., P.C.*, 198 F.3d 502, 511 (4th Cir. 1999). As Leyva has not shown his clear entitlement to the specific relief he requested, we discern no reversible error in the district court's denial of his fourth cause of action.

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\* The district court's order granted Defendants' motion to dismiss or, in the alternative, for summary judgment. Because the district court considered matters outside of the pleadings in making its rulings in this order, we treat the motion as one for summary judgment. *Edelman v. Lynchburg Coll.*, 300 F.3d 400, 404 (4th Cir. 2002).

Accordingly, we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*