

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 11-20651-CIV-O'SULLIVAN

[CONSENT]

KENNETH D. HUMPHREY,

Plaintiff,

v.

JANET NAPOLITANO, Secretary,
United States Department of Homeland
Security, et al.,

Defendants.

ORDER

THIS MATTER is before the Court on the plaintiff's Petition for Writ of Mandamus (DE# 41, 12/19/11). Having reviewed the motion, response and reply, it is

ORDERED AND ADJUDGED that the plaintiff's Petition for Writ of Mandamus (DE# 41, 12/19/11) is DENIED. Section 1361 of Title 28 of the United States Code provides that "[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff." 28 U.S.C. § 1361. The Eleventh Circuit has directed that "mandamus is an extraordinary remedy which should be utilized only in the clearest and most compelling of cases." Dennis v. United States Bureau of Prisons, 325 F. App'x 744, 746 (11th Cir. 2009) (quoting Carter v. Seamans, 411 F.2d 767, 773 (5th Cir. 1969)). The plaintiff has failed to show a clear right to the relief requested. See Cash v. Barnhart, 327 F.3d 1252, 1258 (11th Cir. 2003).

DONE AND ORDERED, in Chambers, at Miami, Florida, this **5th** day of March, 2012.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies provided to:
Counsel of Record
Kenneth D. Humphrey, *pro se*