

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 17-60068  
USDC No. 1:16-CV-143

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A True Copy  
Certified order issued Sep 25, 2017

In re: DAVID E. LYONS,

*Steph W. Cayce*  
Clerk, U.S. Court of Appeals, Fifth Circuit  
Petitioner

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Petition for a Writ of Mandamus and Prohibition  
to the United States District Court  
for the Northern District of Mississippi, Aberdeen

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Before JOLLY, JONES, and SMITH, Circuit Judges.

PER CURIAM:

David E. Lyons, Mississippi prisoner # 04687, has filed in this court a pro se petition for a writ of mandamus and prohibition and a motion requesting leave to file that petition in forma pauperis (IFP). The motion for leave to proceed IFP is GRANTED.

In his petition, received in our court on February 6, 2017, Lyons complains of various failures to act on the part of the magistrate judge, the clerk of the district court, and the district judge in relation to his 28 U.S.C. § 2254 petition. He asks that we direct the magistrate judge to grant his motion to proceed IFP in the district court, that we direct the clerk to file his pleadings, and that we direct the district court to grant his § 2254 petition and order his immediate release. We construe the mandamus petition to complain of delay in the district court's adjudication of his case.

No. 17-60068

Lyons seeks a writ of mandamus and prohibition. “Under the All Writs Act [28 U.S.C. § 1651(a)], . . . the form of the writ is of less importance than the substantive question whether an extraordinary remedy is available.” *In re Davis*, 730 F.2d 176, 181 (5th Cir. 1984). Accordingly, we apply our traditional mandamus law to this petition. The mandamus remedy is an extraordinary one, which we grant only in the clearest, most compelling cases. A party seeking mandamus relief must show both that he has no other adequate means for achieving the requested relief and that he has a clear and indisputable right to mandamus relief. *In re Willy*, 831 F.2d 545, 549 (5th Cir. 1987).

The magistrate judge granted IFP status in February 2017. The Respondent moved to dismiss in April 2017, and Lyons filed a reply in May 2017. On August 4, 2017, the district court entered a final judgment on Lyons’s § 2254 petition. Thus, his petition for mandamus relief is moot.

The petition for a writ of mandamus is DENIED.

# United States Court of Appeals

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130

September 25, 2017

Mr. David Crews  
Northern District of Mississippi, Aberdeen  
United States District Court  
301 W. Commerce Street  
Aberdeen, MS 39730

No. 17-60068      In re: David Lyons  
USDC No. 1:16-CV-143

Dear Mr. Crews,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Monica R. Washington, Deputy Clerk  
504-310-7705

cc w/encl:      Mr. David E. Lyons