

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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



A True Copy
Certified order issued Sep 25, 2017

In re: DAVID E. LYONS,

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

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

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.

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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