

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

ANTHONY DUANE MILLS, # 207420

PLAINTIFF

VERSUS

CAUSE NO. 5:17CV127-KS-MTP

STANLEY SEARCY, JR.

DEFENDANT

ORDER DENYING MANDAMUS

BEFORE THE COURT is *pro se* Plaintiff Anthony Duane Mills's motion [7] for a writ of mandamus. He is a pretrial detainee, awaiting trial on a charge of possession of a weapon by a convicted felon, at the Adams County Jail. He brings this action under 42 U.S.C. § 1983, challenging his conditions of confinement. In the instant motion, he complains of his state criminal proceedings, claiming the state trial judge is biased and that Mills cannot confer with his attorney. Mills asks for a "Writ of Mandamus" but does not specify what he is asking the Court to do. (Mot. for Mandamus at 1). The Court has considered Plaintiff's submission and the relevant legal authority. As set forth below, the motion is denied.

First, the motion is denied, because Mills does not specify the relief he seeks.

Second, even assuming that the motion seeks some sort of order against the state trial judge and defense attorney, the motion is still denied. The federal mandamus statute only grants powers over federal officers. 28 U.S.C. § 1361. This Court "lacks the general power to issue writs of mandamus to direct state courts and their judicial officers in the performance of their duties where mandamus is the only relief sought." *Moye v. Clerk, DeKalb Cty. Super. Ct.*, 474 F.2d 1275, 1275-76 (5th Cir. 1973). Mills brings his claims under § 1983 and apparently asks the Court to direct the state trial judge's performance of his duties to preside over criminal

matters. The Court therefore finds that it lacks jurisdiction to provide mandamus relief.

Of course, a “court may liberally construe a pro se petitioner’s pleading and treat it as a habeas corpus petition, where appropriate.” *Davis v. Fechtel*, 150 F.3d 486, 487 (5th Cir. 1998). To the extent the motion can be said to raise habeas claims, they are dismissed without prejudice.

IT IS THEREFORE ORDERED AND ADJUDGED that the motion [7] for writ of mandamus should be, and is hereby, **DENIED**.

SO ORDERED AND ADJUDGED, this the 24th day of January, 2018.

s/ Keith Starrett
UNITED STATES DISTRICT JUDGE