

HLD-147 (August 2008)

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 08-1785

IN RE: MICHAEL CURTIS REYNOLDS,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the
Middle District of Pennsylvania
(Related to 07-cv-00712)

Submitted Pursuant to Rule 21, Fed. R. App. P.
August 29, 2008

Before: SCIRICA, Chief Judge, ALDISERT and GARTH, Circuit Judges.

(Filed: September 156, 2008)

OPINION OF THE COURT

PER CURIAM.

Michael Curtis Reynolds is a prisoner confined at the United States Penitentiary, Lewisburg, Pennsylvania. Proceeding pro se and in forma pauperis, he seeks a writ of mandamus to compel a ruling of summary judgment in his favor.

Reynolds filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against two correctional officers and a prison board member. After filing his complaint, Reynolds filed several motions for a default judgment against the defendants. The District Court

ordered the defendants to show cause why a default judgment should not issue, and the defendants ultimately filed an answer to Reynolds' complaint. Thereafter, Reynolds filed a series of motions for summary judgment and/or judgment on the pleadings. After the District Court denied those motions in light of the defendants' answer, Reynolds filed the instant mandamus petition claiming an entitlement to summary judgment in his favor on the grounds that a default judgment should have been entered against the defendants.

Mandamus relief is appropriate in only the most extraordinary of circumstances. DeMasi v. Weiss, 669 F.2d 114, 117 (3d Cir. 1982). Petitioners must demonstrate that they have no other adequate means available to obtain the desired relief and that the right to issuance of the writ is "clear and indisputable." Allied Chem. Corp. v. Daifon, Inc., 449 U.S. 33, 35 (1980)). Here, Reynolds seeks an order directing a entry of summary judgment in his favor, but he has not demonstrated that his right to such a ruling is "clear and indisputable."

As we have previously held, the management of its docket is committed to the sound discretion of the district court. In re Fine Paper Antitrust Litig., 685 F.2d 810, 817 (3d Cir. 1982). When a matter is discretionary, it cannot typically be said that a litigant's right is "clear and indisputable." Allied Chem. Corp., 449 U.S. at 35-36. Nonetheless, we have held that a writ of mandamus may be warranted where undue delay is tantamount to a failure to exercise jurisdiction. Madden v. Myers, 102 F.3d 74, 79 (3d Cir. 1996).

Reynolds presents none of the extraordinary circumstances warranting the grant of mandamus relief in this case. Although he cites defendants' delay, they have finally answered his complaint. Nor has Reynolds demonstrated undue delay on the part of the District Court. When the defendants delayed in filing an answer to Reynolds's complaint, the District Court issued orders to show cause as to why a default judgment should not issue, and the defendants furnished an answer. The District Court has also timely addressed Reynolds's motions, and we trust that it will continue to move this case along expeditiously. Therefore, we will deny the petition for a writ of mandamus.