

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

In re R. Wayne Johnson

2021-107 · No. 21-107 · Decided February 2, 2021

SUMMARY

The United States Court of Appeals for the Federal Circuit denied R. Wayne Johnson’s petition for a writ of mandamus challenging proceedings in the United States Court of Appeals for Veterans Claims. The court held that Johnson had not shown entitlement to mandamus and construed his filing as a timely notice of appeal, transmitting it to the Veterans Court for docketing.

CASE DETAILS

COURT	United States Court of Appeals for the Federal Circuit
JURISDICTION	Federal
DECIDED	February 2, 2021
DOCKET	21-107
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Petition for a writ of mandamus challenging the United States Court of Appeals for Veterans Claims' denial of mandamus relief.
STANDARD OF REVIEW	Mandamus relief requires the petitioner to demonstrate that there is no adequate alternative means to obtain the desired relief and that the right to relief is clear and indisputable.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	R. Wayne Johnson

TOPICS

- writ of certiorari
- appellate procedure
- appellate jurisdiction
- administrative law

PRACTICE AREAS

- appellate procedure
- administrative law
- veterans benefits

QUESTIONS PRESENTED

- Whether Johnson was entitled to a writ of mandamus from the Federal Circuit despite having a direct appeal available from a final decision of the Veterans Court.

2. Whether Johnson's filing should be construed and transmitted as a notice of appeal when it satisfied Federal Rule of Appellate Procedure 3(c)(1) and was timely under the applicable appeal rules.

HOLDINGS

1. Mandamus relief was unavailable because Johnson had an adequate alternative remedy by directly appealing a final decision of the Veterans Court and therefore did not establish a clear and indisputable right to relief.
2. The filing was construed as a notice of appeal and transmitted to the Court of Appeals for Veterans Claims because it appeared to satisfy Federal Rule of Appellate Procedure 3(c)(1) and was timely to appeal from the Veterans Court's judgment.

KEY QUOTATIONS

“A party seeking a writ of mandamus bears the burden of demonstrating to the court that he has no adequate alternative means to obtain the desired relief and that right to relief is clear and indisputable.” (2)

“mandamus cannot . . . be used to perform the office of an appeal. . . .” (2)

FACTUAL BACKGROUND

Johnson alleged in the Veterans Court that his benefits had been unconstitutionally withheld and that his privacy rights had been violated. The Veterans Court dismissed his mandamus petition without prejudice for failing to provide sufficient facts and legal explanation. Johnson submitted the Veterans Court's decision to the Federal Circuit with a document entitled "Criminal: Writ of Mandamus."

PROCEDURAL HISTORY

Johnson petitioned the Court of Appeals for Veterans Claims, alleging that his benefits had been unconstitutionally withheld and that his privacy rights had been violated. The Veterans Court dismissed the petition without prejudice because it failed to state the necessary facts and adequately explain the legal bases for the alleged violations. Johnson then sought mandamus relief in the Federal Circuit. The Federal Circuit denied the mandamus petition and construed and transmitted the filing as a notice of appeal to the Veterans Court.

DISPOSITION

writ_denied

REMAND INSTRUCTIONS

The Federal Circuit directed that ECF No. 2 be construed as a notice of appeal and transmitted to the Clerk of the United States Court of Appeals for Veterans Claims for docketing.

CASES CITED

- Mallard v. U.S. Dist. Court for the S. Dist. of Iowa, 490 U.S. 296, 309 (1989)
- In re Pollitz, 206 U.S. 323, 331 (1907)

OPINION

PER CURIAM.

Case: 21-107 Document: 6 Page: 1 Filed: 02/02/2021 NOTE: This order is nonprecedential.
United States Court of Appeals for the Federal Circuit _____ In re: R.
WAYNE JOHNSON, Petitioner _____ 2021-107 _____
On Petition for Writ of Mandamus to the United States Court of Appeals for Veterans Claims in
No. 20-6575, Judge Amanda L. Meredith. _____ ON PETITION
_____ PER CURIAM.

ORDER On December 8, 2020, this court received from R. Wayne Johnson a copy of the November 16, 2020 decision of the United States Court of Appeals for Veterans Claims denying his petition for a writ of mandamus on which he hand wrote “void order,” in addition to a document entitled “Criminal: Writ of Mandamus.” ECF No. 2. Mr. Johnson filed the underlying petition at the Veterans Court alleging that his benefits had been unconstitutionally withheld and that his privacy rights had been violated.

The court dismissed the petition without prejudice for failing to state the facts necessary to understand Case: 21-107 Document: 6 Page: 2 Filed: 02/02/2021 2 IN RE: JOHNSON the issues presented and failing to adequately explain the bases for any purported violation of law. A party seeking a writ of mandamus bears the burden of demonstrating to the court that he has no adequate alternative means to obtain the desired relief and that right to relief is clear and indisputable.

See *Mallard v. U.S. Dist. Court for the S. Dist. of Iowa*, 490 U.S. 296, 309 (1989). Mr. Johnson has failed to meet those requirements, for among other reasons, because he can directly appeal a final decision of the Veterans Court to this court. See *In re Pollitz*, 206 U.S. 323, 331 (1907) (“[M]andamus cannot... be used to perform the office of an appeal...”).

Because Mr. Johnson’s submission appears to meet the requirements of Rule 3(c)(1) of the Federal Rules of Appellate Procedure and was received within the time to appeal from the judgment, * we will transmit the filing to the Court of Appeals for Veterans Claims for purposes of docketing it as a notice of appeal. See Fed. R. App. P. 4(d) (stating that if a notice of appeal is mistakenly filed in the court of appeals, the clerk must note on the notice the date it was received and send it to the lower court’s clerk).

Accordingly, IT IS ORDERED THAT: (1) The petition is denied. * The Veterans Court did not enter judgment until December 9, 2020, the day after this court received Mr. Johnson’s submission. However, a “notice of appeal filed after the court announces a decision... but before the entry of the judgment... is treated as filed on the date of and after the entry.” Fed.

R. App. P. 4(a)(2). Case: 21-107 Document: 6 Page: 3 Filed: 02/02/2021 IN RE: JOHNSON 3 (2)
ECF No. 2 is construed as a notice of appeal and transmitted to the Clerk of the United States

Court of Appeals for Veterans Claims. FOR THE COURT February 02, 2021 /s/ Peter R. Marksteiner Date Peter R. Marksteiner Clerk of Court s29

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/federal-circuit/2021/in-re-r-wayne-johnson-j9cso9ww>