

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

In re R. Wayne Johnson

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

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Case: 21-107 Document: 6 Page: 1 Filed: 02/02/2021 NOTE: This order is nonprecedential.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