

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

In re: Deandre Johnson

In re Johnson · No. No. 21-1342 · Decided May 28, 2021

SUMMARY

The Fourth Circuit denied Deandre Johnson’s pro se petition for a writ of mandamus alleging undue delay in the district court’s consideration of his 28 U.S.C. § 2254 petition. The court held that the record did not show undue delay and that Johnson had not demonstrated a clear right to an order directing the district court to grant habeas relief.

CASE DETAILS

COURT	United States Court of Appeals for the Fourth Circuit
WRITING FOR THE COURT	Per Curiam; DIAZ, Circuit Judge; QUATTLEBAUM, Circuit Judge; SHEDD, Senior Circuit Judge
JURISDICTION	Federal
DECIDED	May 28, 2021
DOCKET	No. 21-1342
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Petition for a writ of mandamus seeking an order directing the district court to rule on and grant relief on a pending 28 U.S.C. § 2254 petition.
STANDARD OF REVIEW	Mandamus is available only in extraordinary circumstances and only when the petitioner has a clear right to the relief sought.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Deandre Johnson

TOPICS

- appellate procedure
- federal habeas corpus
- post-conviction relief
- remedies

PRACTICE AREAS

- Federal habeas corpus
- Appellate procedure
- Mandamus

QUESTIONS PRESENTED

1. Whether mandamus relief was appropriate to address an alleged delay by the district court in ruling on Johnson's § 2254 petition.
2. Whether mandamus could be used to direct the district court to grant substantive habeas relief.

HOLDINGS

1. Mandamus relief was unavailable because the record did not reveal undue delay by the district court.
2. Mandamus could not be used to direct the district court to grant substantive habeas relief because Johnson had not demonstrated a clear right to that relief.

KEY QUOTATIONS

“Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances.” (at 2)

“Further, mandamus relief is available only when the petitioner has a clear right to the relief sought.” (at 2)

FACTUAL BACKGROUND

Johnson had a pending petition for habeas relief under 28 U.S.C. § 2254 in the district court. He alleged that the district court had unduly delayed ruling on the petition. He also sought an order requiring the district court to grant substantive habeas relief.

PROCEDURAL HISTORY

Deandre Johnson filed a § 2254 petition in the United States District Court for the Eastern District of Virginia and sought mandamus relief in the Fourth Circuit, alleging that the district court had unduly delayed ruling. The Fourth Circuit concluded that the record did not show undue delay and denied the mandamus petition.

DISPOSITION

writ_denied

CASES CITED

- *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367, 380 (2004)
- *In re Murphy-Brown, LLC*, 907 F.3d 788, 795 (4th Cir. 2018)

OPINION

PER CURIAM.

UNPUBLISHED UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT No. 21-1342 In re: DEANDRE JOHNSON, Petitioner. On Petition for Writ of Mandamus. (2:21-cv-00120-RAJ) Submitted: May 25, 2021 Decided: May 28, 2021 Before DIAZ and QUATTLEBAUM, Circuit Judges, and SHEDD, Senior Circuit Judge. Petition denied by unpublished per curiam opinion. Deandre Johnson, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit. PER CURIAM: Deandre Johnson petitions for a writ of mandamus, alleging that the district court has unduly delayed in ruling on his 28 U.S.C. § 2254 petition. He seeks an order from this court directing the district court to grant habeas relief. Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances.

Cheney v. U.S. Dist. Ct., 542 U.S. 367, 380 (2004); In re Murphy-Brown, LLC, 907 F.3d 788, 795 (4th Cir. 2018). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought. Murphy-Brown, 907 F.3d at 795.

The relief sought by Johnson is not available by way of mandamus. The present record does not reveal undue delay in the district court. Moreover, insofar as Johnson seeks an order directing the district court to grant substantive relief, Johnson has not demonstrated a clear right to such relief.

Accordingly, we deny the mandamus petition. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process. PETITION DENIED 2