

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-5013

September Term, 2017

1:17-cv-01694-UNA

Filed On: June 21, 2018

In re: Alonzo Dean Shephard,

Petitioner

Consolidated with 18-5025

BEFORE: Kavanaugh, Wilkins, and Katsas, Circuit Judges

ORDER

Upon consideration of the petition for writ of mandamus; the court's January 24, 2018, and January 30, 2018, orders directing petitioner to show cause why he should not be required to pay the full appellate filing fees for these now-consolidated cases; the response thereto, which contains a request for initial hearing en banc; and the supplements to the response, it is

ORDERED that the orders to show cause be discharged. It is

FURTHER ORDERED that the request for initial hearing en banc be denied. See Fed. R. App. P. 35(a). It is.

FURTHER ORDERED that petitioner be barred from proceeding in forma pauperis in these consolidated cases. See 28 U.S.C. § 1915(g). While incarcerated, petitioner has brought at least three civil actions that were dismissed on the grounds that they were frivolous, malicious, or failed to state a claim. See Shephard v. Bush, No. 02-5181 (D.C. Cir. Oct. 29, 2002) (per curiam). Because petitioner has failed to demonstrate the requisite imminent danger of serious physical injury at the time he filed the complaint, he is barred from proceeding without prepayment of the full fee. See 28 U.S.C. § 1915(g); Pinson v. Samuels, 761 F.3d 1, 4-5 (D.C. Cir. 2014); Mitchell v. Fed. Bureau of Prisons, 587 F.3d 415, 421-22 (D.C. Cir. 2009). It is

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FURTHER ORDERED that the petition for writ of mandamus, No. 18-5013, be denied. The writ is available only if (1) the petitioner has “no other adequate means to attain the relief he desires,” (2) the petitioner shows “that his right to issuance of the writ is clear and indisputable,” and (3) “the issuing court, in the exercise of its discretion, [is] satisfied that the writ is appropriate under the circumstances.” In re al-Nashiri, 791 F.3d 71, 78 (D.C. Cir. 2015) (quoting Cheney v. U.S. Dist. Court for Dist. of Columbia, 542 U.S. 367, 380-81 (2004)). Here, petitioner has another adequate means to attain review of the district court’s denial of leave to proceed in forma pauperis and dismissal of his complaint: his pending appeal, No. 18-5025. Moreover, this court’s determination that petitioner may not proceed in forma pauperis is applicable to the decision of the district court, which reached the same conclusion; so petitioner has no clear and indisputable right to relief from that decision by way of a petition for writ of mandamus. It is

FURTHER ORDERED that petitioner pay the \$505 docketing and filing fee for the appeal, No. 18-5025, to the district court within 30 days of the date of this order. Failure to pay the fee will result in dismissal of No. 18-5025 for lack of prosecution. See D.C. Cir. Rule 38.

The Clerk is directed to send a copy of this order to petitioner by whatever means necessary to ensure receipt.

Pursuant to D.C. Circuit Rule 36, the disposition of No. 18-5013 will not be published.

Per Curiam

FOR THE COURT:

By: /s/
Lynda M. Flippin
Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-5025

September Term, 2018

1:17-cv-01694-UNA

Filed On: October 15, 2018 [1755174]

Alonzo Dean Shephard,

Appellant

v.

Donald J. Trump, U.S. president, et al.,

Appellees

ORDER

By order filed June 21, 2018, appellant was directed to pay the docketing fee by July 23, 2018. To date, no response to the order has been received. Upon consideration of the foregoing, it is

ORDERED that this case be dismissed for lack of prosecution. See D.C. Cir. Rule 38.

The Clerk is directed to issue the mandate in this case by November 29, 2018.

FOR THE COURT:

BY: /s/
Lynda M. Flippin
Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-5013

September Term, 2017

1:17-cv-01694-UNA

Filed On: January 31, 2018 [1715628]

In re: Alonzo Dean Shephard,

Petitioner

Consolidated with 18-5025

ORDER

It is ORDERED, on the court's own motion, that these cases be consolidated.

FOR THE COURT:

BY: /s/
Lynda M. Flippin
Deputy Clerk