

No. 18-3492

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
Jul 16, 2018  
DEBORAH S. HUNT, Clerk

In re: VINCENT JOHNSON,

Petitioner.

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ORDER

BEFORE: BOGGS, CLAY, and KETHLEDGE, Circuit Judges.

Vincent Johnson petitions for a writ of mandamus and moves for leave to proceed *in forma pauperis*. Johnson seeks a writ of mandamus pursuant to 28 U.S.C. §§ 1651 and 1361 to compel the clerk of the court to file a motion he submitted pursuant to “Federal Rule of Civil Procedure 60(b)(6)” in his habeas corpus appeal, 16-4076.

Mandamus relief is not warranted. “[M]andamus relief is an extraordinary remedy, only infrequently utilized by this court.” *John B. v. Goetz*, 531 F.3d 448, 457 (6th Cir. 2008) (quoting *In re Perrigo Co.*, 128 F.3d 430, 435 (6th Cir. 1997)). To obtain mandamus relief, the petitioner must show, among other things, a “clear and indisputable” right to issuance of the writ. *In re U.S.*, 817 F.3d 953, 960 (6th Cir. 2016) (quoting *Cheney v. U.S. Dist. Court*, 542 U.S. 367, 381 (2004)). Johnson has not made such a showing. In his habeas corpus proceeding, the clerk of the court refused to file Johnson’s “Rule 60(b)” motion for an entirely proper reason: the case was closed. Specifically, this Court had denied a COA, and the Supreme Court had denied certiorari. Without a COA, the case could not continue. *See* 28 U.S.C. § 2253(c)(1)(A) (“Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding[.]”).

Appendix A

Therefore, Johnson's petition for mandamus fails and must be denied. Should Johnson have a valid claim to present, he may file a motion under 28 U.S.C. § 2244 for leave to file a second or successive habeas corpus petition under 28 U.S.C. § 2254.

The petition for writ of mandamus is **DENIED**, and the motion to proceed *in forma pauperis* is **DENIED AS MOOT**.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", written in a cursive style.

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Deborah S. Hunt, Clerk



**Additional material  
from this filing is  
available in the  
Clerk's Office.**