IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-20507
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
December 17, 2019
Lyle W. Cayce
Clerk

CECIL MAX-GEORGE,

Plaintiff–Appellant,

versus

THE HONORABLE JUSTICES OF THE COURT OF CRIMINAL APPEALS OF TEXAS, in Their Official Capacity;
JUDGE SUSAN BROWN, 185th District Court of Harris County, Texas, in Her Official Capacity,

Defendants–Appellees.

Appeals from the United States District Court
for the Southern District of Texas
No. 4:17-CV-3795

Before DAVIS, SMITH, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Cecil Max-George, Texas prisoner #1649987, appeals the dismissal of his

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

28 U.S.C. § 1651 application for failure to state a claim upon which relief may be granted and the denial of his Federal Rule of Civil Procedure 59(e) motion to alter or amend the judgment dismissal. Max-George moves for extraordinary relief to stay issuance of the mandate pending the filing of a petition for writ of certiorari and a motion to supplement the record on appeal. The motions for a stay of the mandate and to supplement the record are DENIED.

We conduct a *de novo* review of the dismissal of a mandamus petition for failure to state a claim upon which relief may be granted. *Giddings v. Chandler*, 979 F.2d 1104, 1106 (5th Cir. 1992). Under the All Writs Act, federal courts "may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." § 1651(a). Contrary to Max-George's contention, the All Writs Act codifies "[t]he common-law writ of mandamus against a lower court," *Cheney v. U.S. Dist. Court for D.C.*, 542 U.S. 367, 380 (2004). "Mandamus is an extraordinary remedy that should be granted only in the clearest and most compelling cases." *In re Willy*, 831 F.2d 545, 549 (5th Cir. 1987).

The federal courts' mandamus authority does not extend to directing state officials in the performance of their duties and functions. *See Moye v. Clerk, DeKalb Cty. Superior Court*, 474 F.2d 1275, 1275–76 (5th Cir. 1973) (holding that federal courts lack "the general power to issue writs of mandamus to direct state courts and their judicial officers in the performance of their duties where mandamus is the only relief sought"). In his § 1651 application and his appellate brief, Max-George averred that the defendants should be held in contempt because they refused his repeated requests for a free copy of his trial transcripts, to which he was legally entitled. Because Max-George sought mandamus relief only to reverse the decision of a state court, mandamus relief was not appropriate. *See id.* Accordingly, the district court properly dismissed

the mandamus application on this basis.

Although Max-George contends that the district court should have granted his Rule 59(e) motion because it misconstrued his § 1651 application as seeking relief under 28 U.S.C. § 1361, the record does not support that theory. Accordingly, the district court did not abuse its discretion by denying the Rule 59(e) motion. *See Williams v. Thaler*, 602 F.3d 291, 304, 312 (5th Cir. 2010).

AFFIRMED.