

**FILED**

NOV 12 2019

**Clerk, U.S. District and  
Bankruptcy Courts**

PETER GAKUBA, )  
Plaintiff, )  
v. ) Civil Action No. 19-3300 (UNA)  
UNITED STATES OF AMERICA, )  
Defendant. )

**MEMORANDUM OPINION**

The Court construes the plaintiff's *pro se* pleading as a petition for a writ of mandamus. The Court will grant the plaintiff's application to proceed *in forma pauperis* and dismiss his petition.

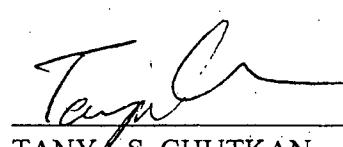
Generally, the plaintiff contends that his conviction in and sentence imposed by the Illinois state courts were obtained in violation of rights protected under the Fifth and Fourteenth Amendments to the United States Constitution. Although he “is not seeking to overturn these wrongful convictions *per se*,” Pet. at 14, he asks this Court to order the United States to investigate the conduct of the police, prosecutors, and judges involved in the criminal matter, *see generally id.* at 11-13.

Mandamus relief is proper only if “(1) the plaintiff has a clear right to relief; (2) the defendant has a clear duty to act; and (3) there is no other adequate remedy available to plaintiff.” *Council of and for the Blind of Delaware County Valley v. Regan*, 709 F.2d 1521, 1533 (D.C. Cir. 1983) (en banc). The party seeking mandamus has the “burden of showing that [his] right to issuance of the writ is ‘clear and indisputable,’” *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 289 (1988) (citing *Bankers Life & Cas. Co. v. Holland*, 346

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U.S. 379, 384 (1953)), and this plaintiff fails to meet his burden. "It is well-settled that a writ of mandamus is not available to compel discretionary acts," *Cox v. Sec'y of Labor*, 739 F. Supp. 28, 30 (D.D.C. 1990) (citing cases), and the Attorney General's decision to investigate any particular matter is left to his discretion, *see Shoshone Bannock Tribes v. Reno*, 56 F.3d 1476, 1480 (D.C. Cir. 1995) ("Courts have also refused to review the Attorney General's litigation decisions in civil matters."); *see also United States v. Nixon*, 418 U.S. 683, 693 (1974) (acknowledging that the Executive Branch "has exclusive authority and absolute discretion to decide whether to prosecute a case"). The petition therefore must be denied. An Order accompanies this Memorandum Opinion.

DATE: November 8, 2019

  
\_\_\_\_\_  
TANYA S. CHUTKAN  
United States District Judge

**FILED**

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Clerk, U.S. District and  
Bankruptcy Courts

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

PETER GAKUBA, )  
Plaintiff, )  
v. ) Civil Action No. 19-3300 (UNA)  
UNITED STATES OF AMERICA, )  
Defendant. )

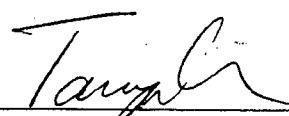
**ORDER**

For the reasons stated in the accompanying Memorandum Opinion, it is hereby  
ORDERED that petitioner's motion to proceed *in forma pauperis* is GRANTED; it is  
FURTHER ORDERED that the petition and this civil action are DISMISSED WITH  
PREJUDICE.

This is a final appealable Order. *See* Fed. R. App. P. 4(a).

SO ORDERED.

DATE: November 8, 2019

  
TANYA S. CHUTKAN  
United States District Judge

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United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 20-5003**

**September Term, 2019**

**1:19-cv-03300-UNA**

**Filed On: June 3, 2020**

Peter Gakuba,

Appellant

v.

United States of America,

Appellee

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**BEFORE:** Henderson and Rao, Circuit Judges, and Sentelle, Senior Circuit Judge

**JUDGMENT**

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the motion to appoint counsel, it is

**ORDERED** that the motion to appoint counsel be denied. In civil cases, appellants are not entitled to appointment of counsel when they have not demonstrated sufficient likelihood of success on the merits. It is

**FURTHER ORDERED AND ADJUDGED** that the district court's orders filed November 12, 2019, and January 10, 2020, be affirmed. The district court properly construed appellant's complaint as a petition for writ of mandamus and dismissed the petition on the ground that he had not shown a "clear and indisputable" right to the relief requested. Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 289 (1988); see American Hosp. Ass'n v. Burwell, 812 F.3d 183, 189 (D.C. Cir. 2016) (A threshold requirement of mandamus jurisdiction is that the government agency or official have "a clear duty to act."). Nor has appellant shown that the district court abused its discretion in denying his motion to alter or amend the judgment. See, e.g., Firestone v. Firestone, 76 F.3d 1205, 1208 (D.C. Cir. 1996) (per curiam).

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 20-5003**

**September Term, 2019**

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Daniel J. Reidy  
Deputy Clerk

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5003

September Term, 2019

1:19-cv-03300-UNA

Filed On: July 27, 2020

Peter Gakuba,

Appellant

v.

United States of America,

Appellee

**BEFORE:** Henderson and Rao, Circuit Judges, and Sentelle, Senior Circuit Judge

**ORDER**

Upon consideration of the petition for rehearing, it is

**ORDERED** that the petition be denied.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Daniel J. Reidy  
Deputy Clerk

AG

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5003

September Term, 2019

1:19-cv-03300-UNA

Filed On: July 27, 2020

Peter Gakuba,

Appellant

v.

United States of America,

Appellee

**BEFORE:** Srinivasan, Chief Judge, Henderson, Rogers, Tatel, Garland, Griffith, Millett, Pillard, Wilkins, Katsas, and Rao, Circuit Judges, and Sentelle, Senior Circuit Judge

**ORDER**

Upon consideration of the petition for rehearing en banc, and the absence of a request by any member of the court for a vote, it is

**ORDERED** that the petition be denied.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Daniel J. Reidy  
Deputy Clerk

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