

No. _____

In the Supreme Court of the United States

In Re William F. Kaetz — Petitioner

vs.

United States of America — Respondent

On Petition for A Writ of Certiorari To
To the United States Court of Appeals
for the Third Circuit

APPENDIX OF PETITION FOR WRIT OF CERTIORARI

William F. Kaetz
437 Abbott Road
Paramus, NJ., 07652
201-753-1063

Pro se Petitioner

CONTENTS

First Opinion	PA1 - PA4
First Order	PA5 - PA6
Rehearing Order	PA7

ALD-013

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 21-1914

IN RE: WILLIAM F. KAETZ,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of New Jersey
(Related to Crim. No. 21-cr-00071-001)

Submitted Pursuant to Rule 21, Fed. R. App. P.
October 21, 2021
Before: JORDAN, RESTREPO, and SCIRICA, Circuit Judges

(Opinion filed: November 1, 2021)

OPINION*

PER CURIAM

William Kaetz has filed a petition for a writ of mandamus. For the reasons that follow, we will deny the petition.

I.

In January 2021, Kaetz was indicted in the United States District Court for the District of New Jersey for threatening to assault and murder a federal judge, transmitting

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not

interstate communications containing threats to injure, making restricted personal information publicly available, and being a felon in possession of a firearm and ammunition.

While his charges were pending, Kaetz filed a mandamus petition in May 2021 in which he challenged the delays in criminal trials due to the COVID-19 pandemic.¹ As relief, he requested that (1) “blanket continuances” in criminal trials be voided; (2) his case be dismissed with prejudice under the Speedy Trial Act; (3) a judgment be entered in his favor and his rights to legal access, family visits, and medical care be restored; (4) the United States and Department of Justice be enjoined from violating other prisoners’ rights to speedy trials; (5) sanctions be imposed for any violations of that injunctive relief; and (6) he be given sentence credit for 4 days for every day served since March 15, 2020. He requested relief under 28 U.S.C. §§ 1361 & 1651. Pet. at 37-40.

After filing his mandamus petition, Kaetz pleaded guilty to one count of making restricted personal information publicly available with the intent to threaten or intimidate in violation of 18 U.S.C. § 119(a)(1) & (2), and was sentenced to 16 months in prison. As part of his plea agreement, he waived his right to appeal or collaterally challenge his conviction or sentence. In October 2021, Kaetz filed a motion seeking to amend the mandamus petition to withdraw any requests for relief that would conflict with his plea

constitute binding precedent.

¹ While the petition was docketed in May 2021, Kaetz did not comply with the fee and service requirements until October 8, 2021.

agreement. He stated that “[a]ll relief that attacks charges, habeas relief, I hereby remove from the relief sought to comply with my plea agreement.” Mot. to Amend at 1. He did not specify which requests for relief he wished to withdraw and which relief he was still seeking.

II.

Pursuant to 28 U.S.C. § 1651(a), we may issue writs “necessary or appropriate in aid of [our] respective jurisdiction[] and agreeable to the usages and principles of law.”² The writ of mandamus will issue only in extraordinary circumstances. Sporck v. Peil, 759 F.2d 312, 314 (3d Cir. 1985). Kaetz must show that he lacks adequate alternative means to obtain the relief he seeks, and he carries the burden of showing that his right to relief is clear and undisputable. See Mallard v. U.S. Dist. Court for S. Dist. of Ia., 490 U.S. 296, 309 (1989).

Because Kaetz, as a layperson, cannot represent the interests of third parties, we will consider his request for mandamus relief as filed only on his behalf. See Winkelman ex rel. Winkelman v. Parma City Sch. Dist., 550 U.S. 516, 536 n.1 (2007) (noting “general common law rule that nonattorneys cannot litigate the interests of another.”); Osei-Afriyie v. Med. Coll. of Pa., 937 F.2d 876, 882-83 (3d Cir. 1991) (holding that non-attorney may not represent other parties). Thus, we will not address Kaetz’s requests that

² As noted above, Kaetz also requested relief pursuant to 28 U.S.C. § 1361. That statute provides that the district courts shall have original jurisdiction over mandamus actions

we enjoin the United States and the Department of Justice from violating other prisoners' rights or void continuances in criminal cases.

His requests that we dismiss his case with prejudice under the Speedy Trial Act and grant him 4 days of credit on his sentence for every day in custody appear to conflict with his agreement to not challenge his conviction or sentence. Per his motion to amend his petition and in an abundance of caution, we treat those requests as withdrawn. In any event, Kaetz has not shown a clear and indisputable right to such relief. See Washington v. Sobina, 475 F.3d 162, 166 and n. 5 (3d Cir. 2007) (per curiam) (holding that defendant waived speedy trial claim by pleading guilty). Kaetz has alternative means of obtaining the remaining relief he seeks, namely exhausting his administrative remedies and then, if appropriate, filing a civil rights action. Moreover, Kaetz has not shown a clear and indisputable right to such relief.

For the above reasons, we grant Kaetz's motion to amend his mandamus petition and deny the petition as amended.

that seek to compel an employee of the United States to perform a duty. Thus, we do not have jurisdiction to issue relief based on that statute.

ALD-013

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 21-1914

IN RE: WILLIAM F. KAETZ,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of New Jersey
(Related to Crim. No. 21-cr-00071-001)

Submitted Pursuant to Rule 21, Fed. R. App. P.
October 21, 2021
Before: JORDAN, RESTREPO, and SCIRICA, Circuit Judges

ORDER

PER CURIAM:

This cause came to be considered on a petition for writ of mandamus submitted on October 21, 2021. On consideration whereof, it is now hereby

ORDERED by this Court that the petition for writ of mandamus be, and the same is, denied. All of the above in accordance with the opinion of the Court.

DATED: November 1, 2021



A True Copy:

Patricia S. Dodsweit, Clerk

PA5

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT

CLERK



UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
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601 MARKET STREET
PHILADELPHIA, PA 19106-1790
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November 1, 2021

Mr. William T. Walsh
United States District Court for the District of New Jersey
Martin Luther King Jr. Federal Building & United States Courthouse
50 Walnut Street
PO Box 999
Newark, NJ 07102

RE: In re: William Kaetz
Case Number: 21-1914
District Court Case Number: 2-21-cr-00071-001

Dear Clerk:

Enclosed please find copies of the following filed today in the above-entitled case:

1. Opinion
2. Certified copy of the order denying the issuance of a writ of mandamus/prohibition.

Very truly yours,
Patricia S. Dodszuweit, Clerk

By: s/James/AMR
Case Manager
267-299-4958

Cc: Madeline C. Arleo
Laura S. Irwin, Esq.
Mr. William F. Kaetz
Honorable J. Nicholas Ranjan

PA6

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 21-1914

In re: WILLIAM F. KAETZ,
Petitioner

(Related to D.N.J. No. 2-21-cr-00071-001)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, McKEE, AMBRO, JORDAN, HARDIMAN, GREENAWAY, JR., KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, and SCIRICA,* Circuit Judges

The petition for rehearing filed by petitioner in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is DENIED.

BY THE COURT

s/ Kent A. Jordan
Circuit Judge

DATED: January 13, 2022

JK/cc: William F. Kaetz

All Counsel of Record

*Judge Scirica's vote is limited to panel rehearing only.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES)
v.) 2:21-CR-71
WILLIAM KAETZ,)
Defendant.)

MEMORANDUM ORDER

Defendant William Kaetz presently moves to transfer venue from the District of New Jersey to the Western District of Pennsylvania, relying on both Federal Rule of Criminal Procedure 21(a)¹ & 21(b).² ECF 67. The government does not oppose Mr. Kaetz's motion. *Id.* at ¶ 9; ECF 68, ¶ 2. For the reasons discussed below, the Court will grant Mr. Kaetz's motion, and transfer venue to the Western District of Pennsylvania.

A district court has wide discretion in deciding whether to transfer venue. *See, e.g.*, *Skilling v. United States*, 561 U.S. 358, 378, n.11 (2010) (“[D]istrict-court calls on the necessity of transfer are granted a healthy measure of appellate-court respect.”); *United States v. Menendez*, 109 F. Supp. 3d 720, 725 (D.N.J. 2015) (“Motions under Rule 21(b) are generally committed to the discretion of the district courts. . . . The defendant need not show truly compelling circumstances, but rather that, all relevant things considered, the case would be better off transferred to

¹ Federal Rule of Criminal Procedure 21(a) states: "For Prejudice. Upon the defendant's motion, the court must transfer the proceeding against that defendant to another district if the court is satisfied that so great a prejudice against the defendant exists in the transferring district that the defendant cannot obtain a fair and impartial trial there."

² Federal Rule of Criminal Procedure 21(b) states: ‘For Convenience. Upon the defendant’s motion, the court may transfer the proceeding, or one or more counts, against that defendant to another district for the convenience of the parties, any victim, and the witnesses, and in the interest of justice.’

another district.” (cleaned up)). Here, the Court finds that transfer of venue is appropriate under at least Rule 21(b).

The Court may consider various factors in deciding whether transfer is appropriate under Rule 21(b)’s basis of convenience.³ To begin with, the unique circumstances of this case warrant transfer of venue. Counsel for both Mr. Kaetz and the government are in the Western District of Pennsylvania, as is the undersigned who is sitting by designation. Further, Mr. Kaetz is presently detained in a New Jersey detention facility pending trial; and his counsel has advised that Mr. Kaetz’s transfer to a detention facility in the Western District of Pennsylvania may allow Mr. Kaetz to communicate more easily and frequently with his attorney in order to prepare for trial. *See generally* ECF 67.

Additionally, while the Court does not find that the media coverage of the attack on Judge Salas’s family, by itself, warrants transfer of venue due to prejudice (ECF 67, ¶ 4(g)), the Court concludes that potential jurors in the Western District of Pennsylvania will be less likely to have been exposed to such media coverage, thus rendering any media coverage less of an issue, and jury selection and trial generally more streamlined, in the Western District of Pennsylvania.

Finally, while the alleged criminal events occurred in the District of New Jersey, neither side has cited any hardships that will result if venue is transferred, such as inconvenience to witnesses or any victims. And even so, the Court finds that any added difficulties that witnesses may experience by having to travel to

³ Various factors include “(1) location of [the] defendant; (2) location of possible witnesses; (3) location of events likely to be in issue; (4) location of documents and records likely to be involved; (5) potential disruption of defendant’s business unless the case is transferred; (6) expense to the parties; (7) location of counsel; (8) relative accessibility of place of trial; (9) docket condition of each district or division involved; and (10) any other special elements which might affect the transfer.” *See Menendez*, 109 F. Supp. 3d at 725 (citing *Platt v. Minnesota Mining & Manufacturing Co.*, 376 U.S. 240, 243–44 (1964)).

Pennsylvania for trial is minimal in light of the other considerations of convenience that such transfer provides. As Mr. Kaetz is willing to forgo the Sixth Amendment's guarantee of a trial in "the state and district wherein the crime [was] committed," and as no party opposes such transfer, the Court finds that transfer of venue is warranted under Rule 21(b). The Court therefore concludes that in light of this confluence of considerations, transfer of venue to the Western District of Pennsylvania is appropriate.

Accordingly, it is **ORDERED** that Defendant's motion to transfer venue (ECF 67) is **GRANTED**. This case shall be transferred forthwith to the United States District Court for the Western District of Pennsylvania (Pittsburgh Division), wherein the undersigned shall continue to preside. By separate order, the Court will direct the United States Marshal's Service to take custody of Mr. Kaetz for transport to the Western District of Pennsylvania.

DATE: April 27, 2021

BY THE COURT:

/s/ J. Nicholas Ranjan
United States District Judge
*Sitting by designation