

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Aug 25, 2021
DEBORAH S. HUNT, Clerk

In re: DOUGLAS CORNELL JACKSON,)
)
Petitioner.)

ORDER

Before: BATCHELDER, COOK, and STRANCH, Circuit Judges.

Douglas Cornell Jackson, a Michigan state prisoner, petitioned *pro se* for a writ of mandamus asking that we compel the district court to vacate its orders imposing filing restrictions and denying the appointment of counsel, both of which interfered with his access to the court. We denied his petition. Jackson now petitions for rehearing.

Panel rehearing is not warranted if we did not misapprehend or overlook any point of law or fact. *See* Fed. R. App. P. 40(a)(2). Jackson alleges that we misapprehended several points of law and fact: (1) that the district court failed to warn him that it might impose filing restrictions before doing so; (2) it failed to identify any pleadings that were unduly lengthy, repetitive, or frivolous; (3) it closed his case so he could exhaust state court remedies for claims on which he was not seeking habeas relief; (4) we failed to take account of his *pro se* status, which limits his ability to exhaust his state court remedies or the district court's filing restrictions; and (5) he is legally barred from pursuing additional state court remedies.

Although Jackson challenged the imposition of filing restrictions in his mandamus petition, he did not allege the district court's failure to warn him of its intent to do so was erroneous. Issues raised for the first time in a petition for rehearing are generally not considered by the court. *See Costo v. United States*, 922 F.2d 302, 302–03 (6th Cir. 1990) (order). In any event, “[t]here is nothing unusual about imposing prefiling restrictions in matters with a history of repetitive or

vexatious litigation.” *Feathers v. Chevron U.S.A., Inc.*, 141 F.3d 264, 269 (6th Cir. 1998). Nor is there anything “wrong . . . with an order that restrains not only an individual litigant from repeatedly filing an identical complaint, but that places limits on a reasonably defined category of litigation because of a recognized pattern of repetitive, frivolous, or vexatious cases within that category.” *Id.*; *see also Hyland v. Stevens*, 37 F. App’x 770, 771 (6th Cir. 2002). And, although Jackson contends that he cannot exhaust any further remedies before the state courts, the Michigan Supreme Court remanded so that the state trial court could rule on his motion for reconsideration. The resolution of this motion should exhaust Jackson’s claims in state court, permitting his habeas petition to proceed.

The petition for rehearing is **DENIED**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

No. 21-1249

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
May 28, 2021
DEBORAH S. HUNT, Clerk

In re: DOUGLAS CORNELL JACKSON,)
)
Petitioner.)

ORDER

Before: BATCHELDER, COOK, and STRANCH, Circuit Judges.

Douglas Cornell Jackson, a Michigan state prisoner, petitions *pro se* for a writ of mandamus asking us to vacate the district court's orders imposing filing restrictions and denying him appointment of counsel, both of which interfere with his access to the court. Jackson also moves to proceed *in forma pauperis*.

"Without question, mandamus is an extraordinary remedy." *In re Univ. of Mich.*, 936 F.3d 460, 466 (6th Cir. 2019). "Traditionally, writs of mandamus [have been] used 'only to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.'" *In re Pros. Direct Ins. Co.*, 578 F.3d 432, 437 (6th Cir. 2009) (quoting *Kerr v. U.S. Dist. Ct.*, 426 U.S. 394, 402 (1976)). Mandamus relief is not available when petitioners have "adequate alternative means to obtain the relief they seek." *In re Am. Med. Sys., Inc.*, 75 F.3d 1069, 1078 (6th Cir. 1996) (quoting *Mallard v. U.S. Dist. Ct.*, 490 U.S. 296, 309 (1989)). It is also "not intended to substitute for appeal[.]" *In re Life Invs. Ins. Co. of Am.*, 589 F.3d 319, 323 (6th Cir. 2009).

The district court imposed filing restrictions because Jackson continued to file pleadings in the district court after it administratively closed his case so he could exhaust his state court remedies. Jackson's state court proceedings are still pending. Additionally, he is not prohibited

entirely from filing in the district court. He must simply exhaust his state court remedies and then comply with the parameters of his filing restrictions when seeking reopening. And these restrictions apply only to this case.

Finally, and as stated by the district court in its order, Jackson could ask the Michigan Court of Appeals to compel adjudication of his action pending in the state trial court. Because of these available alternative remedies, Jackson has not shown a clear and indisputable right to mandamus relief.

The petition for a 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", is written over a horizontal line.

Deborah S. Hunt, Clerk

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