

Appendix A

Judgements of Lower Courts

Appendix A

FILED: February 22, 2023

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

No. 23-1022  
(1:22-cv-00271-TDS-JEP)

---

In re: ALPHONZA LEONARD PHILLIP THOMAS, III

Petitioner

---

JUDGMENT

---

In accordance with the decision of this court, the petition for writ of  
mandamus is denied.

/s/ PATRICIA S. CONNOR, CLERK

**UNPUBLISHED****UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

---

**No. 23-1022**

---

In re: ALPHONZA LEONARD PHILLIP THOMAS, III,

Petitioner.

---

On Petition for Writ of Mandamus. (1:22-cv-00271-TDS-JEP)

---

Submitted: February 16, 2023

---

Decided: February 22, 2023

---

Before GREGORY, Chief Judge, RUSHING, Circuit Judge, and FLOYD, Senior Circuit Judge.

---

Petition denied by unpublished per curiam opinion.

---

Alphonza Leonard Phillip Thomas, III, Petitioner Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

In his petition for a writ of mandamus, Alphonza Leonard Phillip Thomas, III, seeks an order directing his immediate release while his 28 U.S.C. § 2254 petition is pending. He also requests that we review an order from the Inmate Grievance Resolution Board. Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367, 380 (2004); *In re Murphy-Brown, LLC*, 907 F.3d 788, 795 (4th Cir. 2018). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought and “has no other adequate means to attain the relief [he] desires.” *Murphy-Brown*, 907 F.3d at 795 (cleaned up). This court does not have jurisdiction to grant mandamus relief against state officials. *Gurley v. Superior Ct. of Mecklenburg Cnty.*, 411 F.2d 586, 587 (4th Cir. 1969) (per curiam). We conclude that the relief sought by Thomas is not available by way of mandamus.

In a supplement to his mandamus petition, Thomas alleges that the district court has unduly delayed in ruling on his civil complaint. He seeks an order from this court entering judgment in his favor. The present record does not reveal undue delay in the district court, and, in any event, the relief Thomas seeks is not available by way of mandamus. *See In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007) (explaining that mandamus may not be used as substitute for appeal).

Accordingly, we deny the petition for a writ of mandamus, as supplemented. We dispense with oral argument because the facts and legal contentions are adequately

presented in the materials before this court and argument would not aid the decisional process.

*PETITION DENIED*

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ALPHONZA LEONARD PHILLIP THOMAS,        )  
    )  
    )  
Plaintiff,                                    )  
    )  
    )  
    )  
v.    )    1:22CV271  
    )  
    )  
    )  
JOE BIDEN,                                    )  
    )  
    )  
    )  
Defendant.                                    )

ORDER

The Order and Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on November 1, 2022, was served on the parties in this action. (Doc. 3.) Plaintiff filed an objection to the Recommendation. (Doc. 9.)

The court has appropriately reviewed the Magistrate Judge's report, as well as Plaintiff's objections, and has made a de novo determination in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that this action is DISMISSED without prejudice to Plaintiff filing an action using the proper forms completed and signed by Plaintiff.<sup>1</sup>

/s/   Thomas D. Schroeder  
United States District Judge

February 13, 2023

---

<sup>1</sup> To the extent Plaintiff intended to proceed under 28 U.S.C. § 2254, he has now filed on the proper forms in case number 1:23cv35, and his claims will be considered and addressed separately in that case.

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ALPHONZA LEONARD PHILLIP THOMAS,      )  
  )  
  )  
Plaintiff,                              )  
  )  
  )  
v.                                      ) 1:22CV271  
  )  
  )  
JOE BIDEN,                              )  
  )  
  )  
Defendant.                              )

**JUDGMENT**

For the reasons set forth in the Order filed contemporaneously  
with this Judgment,

IT IS THEREFORE ORDERED AND ADJUDGED that this action is  
DISMISSED without prejudice to Plaintiff filing an action using  
the proper forms completed and signed by Plaintiff.

/s/ Thomas D. Schroeder  
United States District Judge

February 13, 2023

Appendix B

M. District  
Socket Entries

Appendix B

**U.S. District Court**  
**North Carolina Middle District (NCMD)**  
**CIVIL DOCKET FOR CASE #: 1:22-cv-00271-TDS-JEP**  
**Internal Use Only**

THOMAS v. BIDEN  
Assigned to: CHIEF JUDGE THOMAS D. SCHROEDER  
Referred to: MAG/JUDGE JOI ELIZABETH PEAKE  
Cause: 28:1331 Federal Question: Bivens Act

Date Filed: 04/04/2022  
Date Terminated: 02/13/2023  
Jury Demand: None  
Nature of Suit: 550 Prisoner: Civil Rights  
Jurisdiction: Federal Question

**Plaintiff**

**ALPHONZA LEONARD PHILLIP  
THOMAS**

represented by **ALPHONZA LEONARD PHILLIP  
THOMAS**  
1287495  
COLUMBUS CORR. INST. #4355  
1255 PRISON CAMP ROAD  
WHITEVILLE, NC 28472  
PRO SE

V.

**Defendant**

**JOE BIDEN**  
*HON. 46TH U.S. PRESIDENT*

Date Filed	#	Docket Text
04/04/2022	<u>1</u>	APPLICATION to Proceed IFP by ALPHONZA LEONARD PHILLIP THOMAS. (Butler, Carol) (Entered: 04/08/2022)
04/04/2022	<u>2</u>	COMPLAINT against JOE BIDEN, filed by ALPHONZA LEONARD PHILLIP THOMAS. (Attachments: # <u>1</u> Envelope - Front and Back)(Butler, Carol) (Entered: 04/08/2022)
04/08/2022		Case to CHIEF JUDGE THOMAS D. SCHROEDER and MAG/JUDGE JOI ELIZABETH PEAKE. (Butler, Carol) (Entered: 04/11/2022)
04/11/2022		CASE REFERRED for Screening (Butler, Carol) (Entered: 04/11/2022)
11/01/2022	<u>3</u>	<b>ORDER AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE</b> signed by MAG/JUDGE JOI ELIZABETH PEAKE on 11/1/2022; ORDERED that in forma pauperis status be granted for the sole purpose of entering this Order and Recommendation. RECOMMENDED that this action be dismissed without prejudice to Plaintiff filing an action using the proper forms completed and signed by Plaintiff. (Hicks, Samantha) (Entered: 11/01/2022)
11/01/2022		<b>ORDER</b> granting <u>1</u> Motion for Application to Proceed IFP. Signed by MAG/JUDGE JOI ELIZABETH PEAKE on 11/1/2022. (Hicks, Samantha) (Entered: 11/01/2022)

11/01/2022	<u>4</u>	Notice of Mailing Recommendation. Objections to R&R due by 11/15/2022. Objections to R&R for Pro Se due by 11/18/2022. (Hicks, Samantha) (Entered: 11/01/2022)
11/21/2022	<u>5</u>	MOTION for Extension of Time to File Response/Reply as to <u>3</u> <b>RECOMMENDED RULING - MAGISTRATE JUDGE</b> , by ALPHONZA LEONARD PHILLIP THOMAS. (Attachments: # <u>1</u> Envelope - Front and Back) (Sheets, Jamie) (Entered: 11/22/2022)
11/23/2022		Motion Referred to MAGISTRATE JUDGE JOI ELIZABETH PEAKE RE: <u>5</u> MOTION for Extension of Time to File Response/Reply as to <u>3</u> <b>RECOMMENDED RULING - MAGISTRATE JUDGE</b> re <u>2</u> Complaint filed by ALPHONZA LEONARD PHILLIP THOMAS. (Engle, Anita) (Entered: 11/23/2022)
12/28/2022	<u>6</u>	<b>ORDER</b> signed by MAG/JUDGE JOI ELIZABETH PEAKE on 12/28/2022; that the Motion for Extension of Time [Doc. # <u>5</u> ] is GRANTED, and Plaintiff is granted an extension of time, until <u>January 30, 2023</u> , to file objections to the Recommendation. The Clerk is directed to send another copy of the Recommendation to Plaintiff with this Order. (Hicks, Samantha) (Entered: 12/28/2022)
12/28/2022		Reset Deadlines: Objections to R&R for Pro Se due by 1/30/2023. (Hicks, Samantha) (Entered: 12/28/2022)
01/09/2023	<u>7</u>	MOTION entitled "Petition for Review of Order of Administrative Inmate Grievance Resolution Board" by ALPHONZA LEONARD PHILLIP THOMAS. Response to Motion due by 1/30/2023. (Attachments: # <u>1</u> Envelope - Front and Back) (Hicks, Samantha) (Entered: 01/10/2023)
01/09/2023	<u>8</u>	REQUEST for Release while 2254 action is under Review by Plaintiff ALPHONZA LEONARD PHILLIP THOMAS. (Hicks, Samantha) (Entered: 01/10/2023)
01/10/2023		Motions Referred to MAGISTRATE JUDGE JOI ELIZABETH PEAKE RE: <u>7</u> MOTION entitled "Petition for Review of Order of Administrative Inmate Grievance Resolution Board" by ALPHONZA LEONARD PHILLIP THOMAS and <u>8</u> REQUEST for Release while 2254 action is under Review by Plaintiff ALPHONZA LEONARD PHILLIP THOMAS.. (Engle, Anita) Modified on 1/11/2023 to include Doc. <u>8</u> . (Engle, Anita). (Entered: 01/10/2023)
01/13/2023	<u>9</u>	OBJECTION TO RECOMMENDED RULING - MAGISTRATE JUDGE re <u>3</u> Recommended Ruling - Magistrate Judge by Plaintiff ALPHONZA LEONARD PHILLIP THOMAS. Response to Objections to R&R due by 1/27/2023. (Attachments: # <u>1</u> Box) (Hicks, Samantha) (Entered: 01/13/2023)
02/10/2023	<u>10</u>	<b>ORDER</b> signed by MAG/JUDGE JOI ELIZABETH PEAKE on 2/10/2023; that the Motion for Release While § 2254 Action is Under Review [Doc. # <u>7</u> ] is STRICKEN without prejudice to re-filing in the appropriate case if Plaintiff files a proper § 2254 action. (Hicks, Samantha) (Entered: 02/10/2023)
02/10/2023		CASE REFERRED to CHIEF JUDGE THOMAS D. SCHROEDER RE: <u>3</u> <b>RECOMMENDED RULING</b> by MAGISTRATE JUDGE re <u>2</u> Complaint filed by ALPHONZA LEONARD PHILLIP THOMAS. (Engle, Anita) (Entered: 02/10/2023)
02/13/2023	<u>11</u>	<b>ORDER</b> signed by CHIEF JUDGE THOMAS D. SCHROEDER on 2/13/2023 adopting the Magistrate Judge's Recommendation; that this action is DISMISSED without prejudice to Plaintiff filing an action using the proper forms completed and signed by Plaintiff. (Hicks, Samantha) (Entered: 02/13/2023)

02/13/2023	<u>12</u>	<b>JUDGMENT</b> signed by CHIEF JUDGE THOMAS D. SCHROEDER on 2/13/2023; that this action is DISMISSED without prejudice to Plaintiff filing an action using the proper forms completed and signed by Plaintiff. (Hicks, Samantha) (Entered: 02/13/2023)
02/15/2023	<del>✉</del> <u>13</u>	MOTION for Summary Judgment by ALPHONZA LEONARD PHILLIP THOMAS. Response to Motion due by 3/17/2023. (Attachments: # <u>1</u> Envelope - Front and Back) (Hicks, Samantha) (Entered: 02/15/2023)
02/16/2023		Motion Submitted to CHIEF JUDGE THOMAS D. SCHROEDER: <u>13</u> MOTION for Summary Judgment. (Engle, Anita) (Entered: 02/16/2023)
02/22/2023	<u>14</u>	USCA OPINION; Petition denied by unpublished per curiam opinion. USCA 23-1022. (Hicks, Samantha) (Entered: 02/22/2023)
02/22/2023	<u>15</u>	<b>USCA JUDGMENT</b> In accordance with the decision of this court, the petition for writ of mandamus is denied. USCA 23-1022. (Hicks, Samantha) (Entered: 02/22/2023)
03/02/2023	<u>16</u>	NOTICE OF APPEAL Without Fee Payment as to <u>12</u> Judgment, by ALPHONZA LEONARD PHILLIP THOMAS. (Attachments: # <u>1</u> Envelope - Front and Back) (Hicks, Samantha) (Entered: 03/02/2023)
03/02/2023	<del>✉</del> <u>17</u>	MOTION entitled "Motion for an Extension to File Motion for Amended Judgement and Motion For a New Trial" by ALPHONZA LEONARD PHILLIP THOMAS. (Hicks, Samantha) (Entered: 03/02/2023)
03/02/2023	<del>✉</del> <u>18</u>	MOTION entitled "Motion to Correct A clerical Mistake Durring the Pendency of An Appeal" by ALPHONZA LEONARD PHILLIP THOMAS. (Hicks, Samantha) (Entered: 03/02/2023)
03/02/2023	<del>✉</del> <u>19</u>	MOTION entitled "Motion For Amended Judgement accompanied by Motion for New Trial and Supporting Affidavits" by ALPHONZA LEONARD PHILLIP THOMAS. (Hicks, Samantha) (Entered: 03/02/2023)
03/02/2023	<del>✉</del> <u>20</u>	MOTION entitled "Motion for Relief From Judgement or Order, And For A New Trial" by ALPHONZA LEONARD PHILLIP THOMAS. Response to Motion due by 3/23/2023. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Certificate of Service) (Hicks, Samantha) (Entered: 03/02/2023)
03/02/2023	<u>21</u>	Electronic Transmission of Notice of Appeal to US Court of Appeals re <u>16</u> Notice of Appeal Without Fee Payment. (Hicks, Samantha) (Entered: 03/02/2023)
03/02/2023		Motions Submitted to CHIEF JUDGE THOMAS D. SCHROEDER: <u>17</u> MOTION entitled "Motion for an Extension to File Motion for Amended Judgement and Motion For a New Trial," <u>18</u> MOTION entitled "Motion to Correct A clerical Mistake Durring the Pendency of An Appeal," <u>19</u> MOTION entitled "Motion For Amended Judgement accompanied by Motion for New Trial and Supporting Affidavits," <u>20</u> MOTION entitled "Motion for Relief From Judgement or Order, And For A New Trial" by ALPHONZA LEONARD PHILLIP THOMAS. (Engle, Anita) (Entered: 03/02/2023)

**U.S. District Court**  
**North Carolina Middle District (NCMD)**  
**CIVIL DOCKET FOR CASE #: 1:23-cv-00035-TDS-JEP**  
**Internal Use Only**

THOMAS-BEY v. STINE  
Assigned to: CHIEF JUDGE THOMAS D. SCHROEDER  
Referred to: MAG/JUDGE JOI ELIZABETH PEAKE  
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 01/13/2023  
Jury Demand: None  
Nature of Suit: 530 Habeas Corpus (General)  
Jurisdiction: Federal Question

**Petitioner****ALPHONZA L.P. THOMAS-BEY**

represented by **ALPHONZA L.P. THOMAS-BEY**  
1287495  
COLUMBUS CORRECTIONAL  
1255 PRISON CAMP RD.  
WHITEVILLE, NC 28472  
PRO SE

V.

**Respondent****JOSH STINE**

Date Filed	#	Docket Text
01/13/2023	<u>1</u>	PETITION for Writ of Habeas Corpus, filed by ALPHONZA L.P. THOMAS-BEY. (Attachments: # <u>1</u> Cover Letter, # <u>2</u> Envelope - Front and Back)(Butler, Carol) (Entered: 01/13/2023)
01/13/2023		Filing fee: \$5.00, receipt number 730. (Butler, Carol) (Entered: 01/13/2023)
01/17/2023		Case Assigned to CHIEF JUDGE THOMAS D. SCHROEDER and MAG/JUDGE JOI ELIZABETH PEAKE. (Butler, Carol) (Entered: 01/17/2023)
01/17/2023		CASE REFERRED for Screening (Butler, Carol) (Entered: 01/17/2023)
01/19/2023	<u>2</u>	SUPPLEMENT re <u>1</u> Petition for Writ of Habeas Corpus by Petitioner ALPHONZA L.P. THOMAS-BEY. (Attachments: # <u>1</u> Envelope - Front and Back)(Butler, Carol) (Entered: 01/20/2023)
02/15/2023	<del>✉</del> <u>3</u>	MOTION for Summary Judgment filed by ALPHONZA L.P. THOMAS-BEY. (Attachments: # <u>1</u> Envelope - Front and Back) (Garland, Leah) (Entered: 02/15/2023)
03/02/2023	<del>✉</del> <u>4</u>	MOTION to Correct a Clerical Mistake. re <u>1</u> Petition for Writ of Habeas Corpus by ALPHONZA L.P. THOMAS-BEY. (Attachments: # <u>1</u> Envelope - Front and Back) (Taylor, Abby) (Entered: 03/02/2023)

**U.S. District Court  
North Carolina Middle District (NCMD)  
CIVIL DOCKET FOR CASE #: 1:23-cv-00045-TDS-JEP  
Internal Use Only**

THOMAS-BEY v. DAVIS et al  
Assigned to: CHIEF JUDGE THOMAS D. SCHROEDER  
Referred to: MAG/JUDGE JOI ELIZABETH PEAKE  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 01/13/2023  
Jury Demand: None  
Nature of Suit: 550 Prisoner: Civil Rights  
Jurisdiction: Federal Question

**Plaintiff**

**ALPHONZA L.P. THOMAS-BEY**  
*also known as*  
**ABDI KEBA-BEY**

represented by **ALPHONZA L.P. THOMAS-BEY**  
1287495  
COLUMBUS CORRECTIONAL  
1255 PRISON CAMP RD.  
WHITEVILLE, NC 28472  
PRO SE

V.

**Defendant**

**SHARON A. DAVIS**  
*REGISTER OF DEEDS*

**Defendant**

**CURTISS MORRISS**  
*ALAMANCE COUNTY SHERIFF DEPUTY*

**Defendant**

**ROY COOPER**  
*GOVERNOR OF N.C.*

**Defendant**

**TERRY JOHNSON**  
*ALA. CO. SHERIFF*

**Defendant**

**MERRICK B. GARLAND**  
*ATTORNEY GENERAL OF UNITED  
STATES*

**Defendant**

**MS. LAURA WICKLINE**  
*ASSISTANT DISTRICT ATTORNEY*

**Defendant**

**JENNIFER WALSH**  
*WARDEN*

**Defendant**

**PAT NADOLSKI**

*DISTRICT ATTORNEY OF ALAMANCE  
COUNTY*

**Defendant**

**JOSH STEIN**

*N.C. ATTORNEY GENERAL*

**Defendant**

**MISS BROWN**

Date Filed	#	Docket Text
01/13/2023	<u>1</u>	COMPLAINT against All Defendants, filed by ALPHONZA L.P. THOMAS-BEY. (Attachments: # <u>1</u> Envelope - Front and Back)(Butler, Carol) (Main Document <u>1</u> replaced on 1/17/2023 to reflect file stamped copy). (Butler, Carol) (Entered: 01/17/2023)
01/13/2023	 <u>2</u>	Prisoner Trust Fund Account Statement by ALPHONZA L.P. THOMAS-BEY. (Attachments: # <u>1</u> Envelope - Front and Back)(Butler, Carol) Modified on 1/17/2023 to reflect received on 1/9/2023. (Butler, Carol) (Entered: 01/17/2023)
01/17/2023		CASE REFERRED for Screening (Butler, Carol) (Entered: 01/17/2023)
01/18/2023		Case Assigned to CHIEF JUDGE THOMAS D. SCHROEDER and MAG/JUDGE JOI ELIZABETH PEAKE. (Butler, Carol) (Entered: 01/18/2023)

**U.S. District Court**  
**North Carolina Middle District (NCMD)**  
**CIVIL DOCKET FOR CASE #: 1:23-cv-00183-TDS-JEP**  
**Internal Use Only**

THOMAS-BEY v. THE STATE OF NORTH CAROLINA  
Assigned to: CHIEF JUDGE THOMAS D. SCHROEDER  
Referred to: MAG/JUDGE JOI ELIZABETH PEAKE  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 02/23/2023  
Jury Demand: None  
Nature of Suit: 555 Habeas Corpus (Prison Condition)  
Jurisdiction: Federal Question

**Plaintiff**

**ALPHONZA LEONARD PHILLIP  
THOMAS-BEY**

represented by **ALPHONZA LEONARD PHILLIP  
THOMAS-BEY**  
1287495  
COLUMBUS CORR. INST. #4355  
1255 PRISON CAMP ROAD  
WHITEVILLE, NC 28472  
PRO SE

V.

**Defendant**

**THE STATE OF NORTH CAROLINA**

Date Filed	#	Docket Text
02/23/2023	<u>1</u>	COMPLAINT against Defendant, filed by ALPHONZA LEONARD PHILLIP THOMAS-BEY. (Attachments: # <u>1</u> Envelope - Front and Back)(Butler, Carol) (Entered: 02/27/2023)
02/27/2023		Case Assigned to CHIEF JUDGE THOMAS D. SCHROEDER and MAG/JUDGE JOI ELIZABETH PEAKE. (Butler, Carol) (Entered: 02/27/2023)
02/28/2023		CASE REFERRED for Screening (Butler, Carol) (Entered: 02/28/2023)

FILED: April 21, 2023

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

No. 23-1022  
(1:22-cv-00271-TDS-JEP)

---

In re: ALPHONZA LEONARD PHILLIP THOMAS, III

Petitioner

---

---

O R D E R

---

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk