

NO. _____
11 TH CIRCUIT CASE NO. 21-13846-F

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE: WILLIAM L. WHIPPLE - PETITIONER

APPLICATION FOR EXTENSION OF TIME

COMES NOW Petitioner William L. Whipple, pro se. Respectfully moving this Honorable Court for extension of time to file his petition for writ of certiorari in accordance with Rule 13.5. In support thereof Whipple states the following:

BASIS OF JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) where the judgement under review derives from the Eleventh Circuit Court of Appeals order DENYING Whipple's Petition for Writ of Mandamus, filed under original jurisdiction pursuant to Title 28 U.S.C. § 1651(a). see (App. "A" - Opinion Denying Writ of Mandamus dated 5-23-22).

Also, this Court's jurisdiction is invoked under 28 U.S.C. 1257 (a). wherein, the judgement of conviction derives out of State Court.

REASONS JUSTIFYING EXTENSION OF TIME

1) On August 4, 2017, Petitioner Whipple submitted his petition for writ of certiorari to the institutions law library (Okeechobee Corrections Institution) for typing. Whipple's typing request was disapproved for the reason of:

(a) inmate typing service is temporarily suspended due to lack of paper. see (App. "B" - Request for Word Processing),

and

2) Petitioner Whipple is awaiting his 12 month inmate bank state from the institutions classification department, in order to submit his affidavit of indigent and in forma pauperis.

CONCLUSION, due to the reasons listed above, Whipple request an extension of time for sixty (60) days wherein, the circumstance preventing timely filing are beyond petitioner's control.

WHEREFORE, Petitioner request that this Honorable Court grants the relief sought.

PROOF OF SERVICE

I, William L. Whipple, do swear or declare that on this 10th day of August 2022 I placed the Application for Extension of Time in the hands of D.O.C. Okeechobee C.I. to be furnished via U.S. mail with first-class postage prepaid to the parties below:

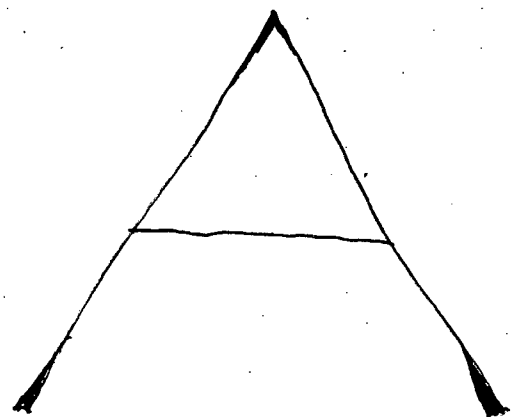
FURNISHED PARTIES

Solicitor General of the United States
Room 5016
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Clerk of Court
U.S. Supreme Court
Washington, DC 20543-0001

W L Whipple
William L. Whipple # 816787
Okeechobee Correction Institution
3420 N.E. 168th St.
Okeechobee, FL 34972-4824

EXHIBIT



IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-13846-F

In re: WILLIAM L. WHIPPLE,

Petitioner.

On Petition for Writ of Mandamus from the United States District Court for the
Southern District of Florida

ORDER:

William Whipple, a Florida prisoner proceeding *pro se*, has filed a petition for writ of mandamus arising out of his 28 U.S.C. § 2254 petition for habeas corpus, filed in the U.S. District Court for the Southern District of Florida in 2014. In his mandamus petition, Whipple asks this Court to direct the district court to make a *de novo* determination of his § 2254 petition in light of objections he filed to a magistrate judge's report and recommendation, to vacate the order dismissing his § 2254 petition, and to void the district court's order denying his motion to expand the record. Whipple seeks to file this mandamus petition *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a).

Section 1915(a) provides that a United States court may authorize the commencement of any proceeding, without prepayment of fees, by a person who submits an affidavit that includes a statement of assets that he possesses and indicates that he is unable to pay such fees. This Court, however, may dismiss an action at any time if it determines that the allegation of poverty is untrue, or the action or appeal is frivolous. 28 U.S.C. § 1915(e)(2). Assuming, without deciding, that

Whipple has satisfied § 1915(a)'s poverty requirement, his mandamus petition is nevertheless frivolous, and his IFP motion is due to be denied.

Mandamus is available only in drastic situations when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion. *United States v. Shalhoub*, 855 F.3d 1255, 1259 (11th Cir. 2017); *Jackson v. Motel 6 Multipurpose, Inc.*, 130 F.3d 999, 1004 (11th Cir. 1997). Mandamus may not be used as a substitute for appeal or to control decisions of the district court in discretionary matters. *Jackson*, 130 F.3d at 1004. The petitioner has the burden of showing that he has no other avenue of relief, and that his right to relief is clear and indisputable. *Mallard v. United States Dist. Court*, 490 U.S. 296, 309 (1989). When an alternative remedy exists, even if it is unlikely to provide relief, mandamus relief is not proper. *See Lifestar Ambulance Svc., Inc. v. United States*, 365 F.3d 1293, 1298 (11th Cir. 2004).

A writ of mandamus “may issue 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.” *Shalhoub*, 855 F.3d at 1263 (quotation marks omitted).

This Court has jurisdiction to review an appeal from a final judgment. 28 U.S.C. § 1291. An appeal from a final judgment brings up for review all preceding non-final orders. *Corley v. Long-Lewis, Inc.*, 965 F.3d 1222, 1229 (11th Cir. 2020).

Here, Whipple is not entitled to mandamus relief because he had, and exercised, the adequate alternative remedies of challenging the district court's orders dismissing his § 2254 petition and motion to expand the record, through a motion to reconsider in the district court and an appeal to this Court. *Shalhoub*, 855 F.3d at 1259. Whether or not Whipple succeeded in his challenges to the district court's orders does not impact the analysis of whether they were adequate alternative remedies for mandamus purposes. *See Lifestar*, 365 F.3d at 1298.

To the extent that Whipple seeks action by this Court to vacate or void the district court's orders, that relief is not cognizable in mandamus because he does not ask this Court to order an inferior court to act but asks this Court to act itself. *See Shalhoub*, 855 F.3d at 1263.

Accordingly, Whipple's IFP motion is hereby **DENIED**, as his mandamus petition is frivolous.

/s/ Barbara Lagoa
UNITED STATES CIRCUIT JUDGE

EXHIBIT

B

WORD PROCESSING SERVICES REQUEST

TRACKING #: _____

INMATE NAME: Whipple, William DC#: 816787

INSTITUTION/UNIT: Okkechobee HOUSING LOCATION: D3206⁴

IDENTIFY THE COURT IN WHICH THE LEGAL DOCUMENT WILL BE FILED: U.S. Supreme Court

COURT DEADLINE: YES NO DATE OF DEADLINE: 8-20-22

TITLE OF LEGAL DOCUMENT TO BE TYPED: Writ of Certiorari

W. L. Wh 8-4-22
SIGNATURE OF REQUESTING INMATE DATE

COURT DEADLINE VERIFIED: YES NO STAFF INITIALS: _____

INMATES DO NOT WRITE IN THIS BOX

REQUEST IS: APPROVED DISAPPROVED

[Signature] 8-22
LAW LIBRARY SUPERVISOR DATE

REASON FOR DISAPPROVAL: NOT LEGIBLE NOT A LEGAL DOCUMENT OTHER

All Typing has been stopped until 21
Further notice per MS. Soborg paper shortage

OF PAGES SUBMITTED: _____ # OF PAGES IN FINAL: _____ DATE TYPED: _____

I HAVE RECEIVED MY COMPLETED LEGAL DOCUMENT AND MY ORIGINALLY SUBMITTED DOCUMENT.

INMATE SIGNATURE _____ DATE _____