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**ORDER, U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT
(FEBRUARY 22, 2024)**

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

IN RE CHARLES SIMON,

Petitioner.

28-7922

CHARLES SIMON,

Plaintiff-Appellant,

v.

**FEDERAL PRISON INDUSTRIES INC., STEVE
SCHWALB, CHIEF OPERATING OFFICER OF
FEDERAL PRISON INDUSTRIES,**

Defendants-Appellees.

23-1216

S.D.N.Y.-N.Y.C. 23-cv-5125
Liman, J.

Before: Richard C. WESLEY, Gerard E. LYNCH,
Eunice C. LEE, Circuit Judges.

Petitioner, proceeding pro se, petitions for a writ of mandamus in No. 23-7922 directing this Court to prohibit Appellees from seeking an extension of time to file their brief in appeal No. 23-1216. In the appeal No. 23-1216, Appellant moves for a preliminary injunction, summary reversal, sanctions, and for consolidation of the appeal and the mandamus petition; and Appellees move to dismiss. Upon due consideration, it is hereby ORDERED that the motion to consolidate the appeal and the mandamus petition is GRANTED for purposes of this order. It is further ORDERED that the mandamus petition is DENIED because Petitioner has not established a clear and unequivocal right to a writ of mandamus. *Linde v. Arab Bank, PLC*, 706 F.3d 92, 107-08 (2d Cir. 2013). Petitioner appears to object to what he perceives as a motion by the Government for an extension of time to file its brief, but the Government has filed no such motion; its scheduling notice sets a schedule in keeping with the Court's Local Rule 31.2(a)(1)(B).

It is further ORDERED that the motions for preliminary injunction, summary reversal, and sanctions are DENIED in appeal No. 23-1216 and Appellees' motion to dismiss is GRANTED. Appellant has not established a likelihood of success on the merits of his appeal to warrant injunctive relief, *Agudath Isr. of Am. v. Cuomo*, 980 F.3d 222, 226 (2d Cir. 2020) (per curiam), nor has Appellant established that Appellees have acted vexatiously or in bad faith to warrant sanctions. 28 U.S.C. § 1927; *Ransmeier v. Mariani*, 718 F.3d 64, 68 (2d Cir. 2013); Fed. R. App. P. 38. The appeal is DISMISSED as it "lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S.

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319, 325 (1989); *Pillay v. INS*, 45 F.3d 14, 17 (2d Cir. 1995) (per curiam).

Appellant has filed several other appeals or proceedings in this Court, challenging the adequacy of his accident compensation award: 17-2265, 13-1247, 11-5185, 97-2231, 97-3032 and 96-3075. Accordingly, Appellant is hereby warned that the continued filing of frivolous appeals or proceedings challenging the accident compensation award could result in the imposition of a sanction that would require Appellant to obtain permission from this Court prior to filing any further submissions challenging that award in this Court (a "leave-to-file" sanction). See *In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir. 1993); *Sassower v. Sansverie*, 885 F.2d 9, 11 (2d Cir. 1989) (per curiam).

FOR THE COURT:

/s/ Catherine O'Hagan Wolfe
Clerk of Court


Catherine O'Hagan Wolfe

**ORDER DENYING APPELLANT'S REQUEST
FOR EXPEDITED APPEAL, U.S. COURT OF
APPEALS FOR THE SECOND CIRCUIT
(SEPTEMBER 28, 2023)**

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 28th day of September, two thousand twenty-three

Before: Joseph F. Bianco, Circuit Judge.

CHARLES SIMON,

Plaintiff-Appellant,

v.

FEDERAL PRISON INDUSTRIES INC., STEVE SCHWALB, CHIEF OPERATING OFFICER OF FEDERAL PRISON INDUSTRIES,

Defendants-Appellees.

ORDER

23-1216

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Appellant moves for an expedited appeal. Appellees oppose the motion.

IT IS HEREBY ORDERED that the motion is DENIED.

FOR THE COURT:

/s/ Catherine O'Hagan Wolfe
Clerk of Court

Catherine O'Hagan Wolfe

**ORDER DENYING MOTION FOR
RECONSIDERATION, U.S. COURT OF
APPEALS FOR THE SECOND CIRCUIT
(MAY 8, 2024)**

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

CHARLES SIMON,

Plaintiff-Appellant,

v.

**FEDERAL PRISON INDUSTRIES INC., STEVE
SCHWALB, CHIEF OPERATING OFFICER OF
FEDERAL PRISON INDUSTRIES,**

Defendants-Appellees.

Docket No: 23-1216

Appellant, Charles Simon, filed a motion for panel reconsideration, or, in the alternative, for reconsideration *en banc*. The panel that determined the appeal has considered the request for reconsideration, and the active members of the Court have considered the request for reconsideration *en banc*.

IT IS HEREBY ORDERED that the motion is denied.

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/s/ Lewis J. Liman
United States District Judge

Dated: May 13, 2023
New York, New York

FOR THE COURT:

/s/ Catherine O'Hagan Wolfe
Clerk of Court

**USDOJ LETTER REQUEST FOR EXTENSION,
FILED IN THE U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT
(SEPTEMBER 28, 2023)**

U.S. DEPARTMENT OF JUSTICE
United States Attorney
Southern District of New York
86 Chambers Street
New York, New York 10007

By Electronic Case Filing

Catherine O'Hagan Wolfe
Clerk of Court
United States Court of Appeals
for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: Simon v. Federal Prison Industries Inc.,
 Docket No. 23-1216

Dear Ms. Wolfe:

Pursuant to this Court's Local Rule 31.2(a), defendant-appellee respectfully requests a deadline of December 26, 2023, for the filing of defendant-appellee's brief in the above-named appeal. This date is 91 days from the date appellant's brief was filed.

Respectfully submitted,
DAMIAN WILLIAMS
United States Attorney

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cc: Charles Simon, pro se
(by ECF and mail)