

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Deborah S. Hunt
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

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www.ca6.uscourts.gov

Filed: October 25, 2022

Mr. Darryl Smith
Mansfield Correctional Institution
P.O. Box 788
Mansfield, OH 44901

Re: Case No. 22-3698, *In re: Darryl Smith*
Originating Case No. : 1:18-cv-00163

Dear Mr. Smith,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Ryan E. Orme
Case Manager
Direct Dial No. 513-564-7079

cc: Ms. Sandy Opacich

Enclosure

No mandate to issue

No. 22-3698

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Oct 25, 2022
DEBORAH S. HUNT, Clerk

In re: DARRYL SMITH,

Petitioner.

)

O R D E R

Before: BOGGS, KETHLEDGE, and DAVIS, Circuit Judges.

Darryl Smith, an Ohio prisoner, petitions for a writ of mandamus and asks that we compel the district court to file and process his civil-rights action and randomly reassign it to a different district court judge. Smith also twice moves to proceed *in forma pauperis*.

Mandamus “is a drastic and extraordinary remedy reserved for really extraordinary causes.” *Cheney v. U.S. Dist. Ct. for Dist. of Columbia*, 542 U.S. 367, 380 (2004) (internal quotation marks and citation omitted). “[T]hree conditions must be satisfied before it may issue.” *Id.* First, the petitioner must have no other adequate remedy to obtain the relief he seeks. *Id.* Second, the right to the writ must be “clear and indisputable.” *Id.* at 381 (citation omitted). Finally, even if these prerequisites have been met, issuance of the writ must be “appropriate under the circumstances.” *Id.*

Smith had an adequate alternative remedy to request the relief he seeks in his mandamus petition. He pursued this remedy by moving the district court for leave to file his complaint. That his motion was denied does not render that remedy inadequate. He also could have appealed the denial of his motion for leave but failed to do so. Because Smith failed to pursue his available adequate remedies, he cannot demonstrate that he has a clear and indisputable right to mandamus relief or that issuance of the writ is appropriate.

No. 22-3698

-2-

The petition for a writ of mandamus is **DENIED**, and the motions to proceed *in forma pauperis* are **DENIED AS MOOT**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

No. 22-3698

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Jun 15, 2023

DEBORAH S. HUNT, Clerk

IN RE: DARRYL SMITH,

Petitioner.

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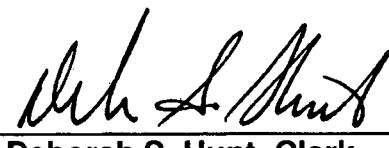
O R D E R

BEFORE: BOGGS, KETHLEDGE, and DAVIS, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

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Filed: June 15, 2023

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P.O. Box 788
Mansfield, OH 44901

Re: Case No. 22-3698, *In re: Darryl Smith*
Originating Case No.: 1:18-cv-00163

Dear Mr. Smith,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Beverly L. Harris
En Banc Coordinator
Direct Dial No. 513-564-7077

Enclosure

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