

United States Court of Appeals
for the Fifth Circuit

No. 22-51111

United States Court of Appeals
Fifth Circuit

FILED

June 20, 2023

Lyle W. Cayce
Clerk

Petitioner.

IN RE ROWLAND J. MARTIN

Petition for Writ of Mandamus to the
United States District Court
for the Western District of Texas
USDC Nos. 5:22-CV-374, 5:22-CV-522

UNPUBLISHED ORDER

Before DUNCAN, OLDHAM, and WILSON, *Circuit Judges*.

PER CURIAM:

Rowland J. Martin has filed in this court a pro se petition for a writ of mandamus. In 2010, Martin filed a federal action against various individuals challenging a 2006 foreclosure sale on a piece of property. This court upheld the district court's grant of summary judgment in favor of the defendants, finding that Martin had failed to show a genuine issue of material fact with respect to his claims of fraud and false statements related to the foreclosure sale. *Martin v. Grehn*, 546 F. 3d pp'x 415, 418-21 (5th Cir. 2013). In 2015, this court vacated the district court's orders requiring Martin to pay attorney's fees to the defendants in conjunction with the federal challenge to the foreclosure, concluding that the sanctions failed to comply with Federal Rule of Civil Procedure 11 and constituted a denial of due process. However, the

court declined to consider Martin's new arguments challenging the summary judgment in favor of the defendants. *Martin v. Bravenec*, 627 F. 3d pp'x 310, 312-14 (5th Cir. 2015) (No. 14-50093).

In 2022, Martin filed a notice of removal from the state court of a tax collection action filed by Bexar County and other taxing authorities based on Martin's failure to pay property taxes for an unrelated piece of real property. The district court granted the tax authorities' motion to remand the case to state court based on a lack of federal subject matter jurisdiction. *Cnty. of Bexar v. Martin*, No. SA-22-CV-00374-XR, 2022 WL 2806851, 3-5 (W.D. Tex. July 18, 2022) (unpublished). This court granted the tax authorities' motion to dismiss Martin's appeal for lack of jurisdiction. *Bexar Cnty. v. Martin*, No. 22-50718, 2022 WL 18717707, 1 (5th Cir. Oct. 24, 2022) (unpublished) (No. 22-50718); *see* 28 U.S.C. § 1447(d).

Also in 2022, Martin filed a notice of removal of a case filed in state court by Edward Bravenec, one of the defendants involved in the earlier foreclosure challenge. Martin alleged that Bravenec had filed a "strategic litigation against public participation" (SLAPP) action against him in state court, which he had successfully challenged, and maintained that the 2015 ruling vacating the sanctions order established that Martin had superior title to the foreclosed property. Prior to any substantive ruling by the district court, Martin filed a notice of appeal to the Federal Circuit Court of Appeals, apparently based on the district court's failure to grant a motion filed in the property tax proceeding to consolidate the two removed cases. However, the district court clerk apparently forwarded the appeal to both the Federal Circuit and to the Fifth Circuit. A panel of this court dismissed its appeal for lack of jurisdiction, noting that Martin was not appealing any ruling by the district court and that the appeal was erroneously opened. *Bravenec v. Martin*, No. 22-50822 (5th Cir. Nov. 28, 2022) (unpublished). Following Martin's notice of appeal, the district court remanded the case to state court.

The Federal Circuit has since dismissed Martin's appeal of the remand order. *Bravenec v. Martin*, No. 22-2191 (Fed. Cir. Feb. 28, 2023) (unpublished).

Martin now seeks a writ of mandamus, alleging that he is entitled to enforcement of the judgment in No. 14-50093 and a stay of the proceedings in No. 22-50718 and No. 22-50822. In addition, he seeks to consolidate No. 14-50093, No. 22-50718, and No. 22-50822. According to Martin, he has been declared a micro entity under the patent laws, which provides him with patent-related rights and investment-backed expectations in his real property that are protected against state action under the Privileges and Immunities Clause. He maintains that this court should consider whether a micro entity has the right to appeal a removal action to the Fifth Circuit when an appeal is also pending in the Federal Circuit challenging violations of the patent laws. Martin also contends that the wrongful filing of appeal No. 22-50822 by the district court clerk constituted a violation of the Appointments Clause and triggered a split among the circuits about patent issues. In addition, he maintains that this court should review accounting errors related to the liens that resulted in the seizure and foreclosure of his real estate because such a review could assist the Federal Circuit in its review of the validity of his patent-related claims and his allegations of a superior claim of ownership in the property. Martin argues that this court should act to prevent SLAPP actions filed by defendants in the foreclosure proceedings, particularly in light of the vacated sanctions order in No. 14-50093.

“Mandamus is an extraordinary remedy that should be granted only in the clearest and most compelling cases.” *In re Willy*, 831 F.2d 545, 549 (5th Cir. 1987). A party seeking mandamus relief must show both that he has no other adequate means to obtain the requested relief and that he has a “clear and indisputable” right to the writ. *Id.* (internal quotation marks and citation omitted). “Where an interest can be vindicated through direct

appeal after a final judgment, this court will ordinarily not grant a writ of mandamus.” *Campanioni v. Barr*, 962 F.2d 461, 464 (5th Cir. 1992).

Martin filed appeals following the summary judgment upholding the foreclosure proceedings and the imposition of sanctions, and he in fact obtained reversal of the sanctions. Because he had an appellate remedy, he is not entitled to mandamus relief with respect to those actions. See *Campanioni*, 962 F.2d at 464. ¶ Although this court dismissed Martin’s appeal of the remand order in No. 22-50718, a challenge to a remand order based on a lack of jurisdiction is not reviewable by the appellate court under § 1447(d) “by mandamus or otherwise.” *Gravitt v. Sw. Bell Tel. Co.*, 430 U.S. 723, 723 (1977). To the extent that Martin may be seeking to have this court order the Texas state courts to bar what he construes as restrictive litigation against him, our mandamus authority does not extend to directing state officials in the performance of their duties and functions. Cf. *Moye v. Clerk, DeKalb Cnty. Superior Court*, 474 F.2d 1275, 1275–76 (5th Cir. 1973) (holding that federal courts lack “the general power to issue writs of mandamus to direct state courts and their judicial officers in the performance of their duties where mandamus is the only relief sought”).

Martin’s request for an order staying No. 22-50718 and No. 22-50822 has been rendered moot by the issuance of the mandate in both cases. Accordingly, the petition for a writ of mandamus is DENIED. As the appeals that Martin seeks to consolidate have all been closed, his motion to consolidate is likewise DENIED.



A True Copy
Certified order issued Jun 20, 2023

Styl W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit