

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-12071

In re: JOE NATHAN PYATT, JR.,

Petitioner.

On Petition for Writ of Mandamus to the
United States District Court for the
Southern District of Florida
D.C. Docket No. 1:22-cr-20138-RKA-1

ORDER:

Joe Pyatt Jr., proceeding *pro se*, petitions this Court for a writ of mandamus and moves to proceed *in forma pauperis* ("IFP") as to his mandamus petition. In his petition, Pyatt requests that this Court compel the Clerk of this Court to accept, file, and process the *pro se* motions he has filed in this Court in his interlocutory appeal of a district court order declaring him incompetent to stand trial on pending criminal charges. Pyatt is currently represented by his appointed criminal counsel in the interlocutory appeal, but he has filed a motion to proceed *pro se* that is presently before the Court for its consideration.

Pyatt seeks to file this mandamus petition 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. However, this Court 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). In this case, assuming that Pyatt can satisfy the indigency requirement, he has not shown an entitlement to proceed IFP because his mandamus petition is frivolous.

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." *Jackson v. Motel 6 Multipurpose, Inc.*, 130 F.3d 999, 1004 (11th Cir. 1997) (quotation omitted). "[A] writ of mandamus may issue only to confine an inferior court to a

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lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so." *In re Smith*, 926 F.2d 1027, 1030 (11th Cir. 1991) (quotation omitted). 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).

Rule 25-1 of this Court's rules provide that, when a party is represented by counsel, the clerk may not accept filings from the party. 11th Cir. R. 25-1.

Pyatt's request that this Court itself act is not cognizable in mandamus because a writ of mandamus by this Court may issue only to confine an inferior federal court to its jurisdiction or duty. *See Smith*, 926 F.2d at 1030. Similarly, to the extent he requests that this Court compel its own Clerk to accept his motions, this request is not cognizable because he is not requesting that this Court compel an inferior federal court. *See id.* Further, Pyatt has no clear and indisputable right to the relief he seeks. *Mallard*, 490 U.S. at 309. Unless and until this Court grants his pending motion to proceed *pro se*, neither this Court nor its Clerk has a clear legal duty to accept filings directly from him, as he is represented by counsel. 11th Cir. R. 25-1.

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

/s/ Jill Pryor

UNITED STATES CIRCUIT JUDGE