

No. _____

**IN THE SUPREME COURT OF THE UNITED
STATES**

**LAVONNE WASHINGTON AND MICHAEL
WASHINGTON, Petitioners,**

v.

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA,
AND PRIMERICA LIFE INSURANCE COMPANY,
Respondents.**

**ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
ELEVENTH CIRCUIT**

**APPENDIX TO THE PETITION FOR WRIT OF
CERTIORARI**

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Petitioners Pro Se

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In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10482

In re: LAVONNE WASHINGTON,
MICHAEL WASHINGTON,

Petitioners.

On Petition for Writ of Mandamus to the
United States District Court for the
Middle District of Florida
D.C. Docket No. 8:24-cv-02433-SDM-NHA

Before JORDAN, BRANCH, and BRASHER, Circuit Judges.

BY THE COURT:

LaVonne and Michael Washington (together, “the Washingtons”), proceeding pro se, petition us for a writ of mandamus or prohibition arising out of a dismissed civil action in the U.S. District Court for the Middle District of Florida initiated by their sister, in

which the Washingtons unsuccessfully moved to intervene and disqualify U.S. District Court Judge Steven Merryday from presiding over the case.

The Washingtons have filed two motions to amend their petition. In their second motion, they ask “to withdraw their previously filed motion to amend” so that “this Court can proceed expeditiously.”

In the amended petition attached to their second motion, the Washingtons argue that: (1) the defendant in their sister’s case, Primerica Life Insurance Company (“Primerica”), has engaged in misconduct in this Court and the district court; and (2) the district judge in that case, Judge Steven Merryday, prematurely closed the case. They also contend that Judge Merryday’s alleged failure to timely rule on their motion for disqualification “has created an appearance of impropriety . . . necessitating a writ of mandamus to compel disqualification.” As relief, the Washingtons request that we compel Judge Merryday to disqualify or recuse himself from the case initiated by their sister.

The Washingtons have also filed a “motion for judicial notice and sanctions.” They request that we take judicial notice of: (1) a motion filed by LaVonne Washington in the district court titled, “plaintiff’s motion for certification of interlocutory appeal under 28 U.S.C. § 1292(b),” which LaVonne Washington filed in her own civil action against Judge Merryday and Primerica; and (2) a filing titled, “cross claimant Cheryl Harris’ response in opposition to defendant’s motion to dismiss cross claim and for other relief,”

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which one of the Washingtons' sisters, Cheryl Harris, filed in her own civil action in the district court against Judge Merryday and Primerica. The Washingtons also request that we impose sanctions against Primerica because Primerica's counsel "has failed to make an appearance in any appellate proceeding flowing from the case at bar."

Writs of prohibition and mandamus, both authorized under 28 U.S.C. § 1651, are "two sides of the same coin with interchangeable standards." *United States v. Pleau*, 680 F.3d 1, 4, (1st Cir. 2012) (en banc) (persuasive authority). They are used to compel a lower court to exercise its authority when duty demands it, or to confine a lower court to "a lawful exercise of its prescribed jurisdiction." *United States v. Shalhoub*, 855 F.3d 1255, 1263 (11th Cir. 2017) (quotation marks omitted). These writs are available only in drastic situations, when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion. *Id.* at 1259; *Jackson v. Motel 6 Multipurpose, Inc.*, 130 F.3d 999, 1004 (11th Cir. 1997) (quotation marks 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. See *Mallard v. U.S. Dist. Court*, 490 U.S. 296, 309 (1989); see also *In re Wainwright*, 678 F.2d 951, 953 (11th Cir. 1982) (applying the same standard to writs of prohibition). These writs 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; *Wainwright*, 678 F.2d at 953. When an alternative remedy exists, even if it is unlikely to provide relief, mandamus

relief is not proper. *Lifestar Ambulance Serv., Inc. v. United States*, 365 F.3d 1293, 1298 (11th Cir. 2004).

Federal Rule of Civil Procedure 24 provides for two kinds of intervention: intervention as of right and permissive intervention. *See* Fed. R. Civ. P. 24. A party seeking to intervene as of right under Fed. R. Civ. P. 24(a)(2) must show that: (1) his application to intervene is timely; (2) he has an interest relating to the property or transaction which is the subject of the action; (3) he is situated so that disposition of the action may, as a practical matter, impair his ability to protect that interest; and (4) his interest is represented inadequately by the existing parties to the litigation. *Fox v. Tyson Foods, Inc.*, 519 F.3d 1298, 1302-03 (11th Cir. 2008). A party may permissibly intervene under Rule 24 if he is given a conditional right to do so by a federal statute, or he has “a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1).

If a district court permits intervention, the intervenor has the right to appeal from all orders in the case that affect him. *Nichols v. Mobile Bd. of Realtors, Inc.*, 675 F.2d 671, 673 (5th Cir. Unit B 1982). A party who is denied leave to intervene lacks standing to later appeal from the final judgment or any orders on the merits of the case. *Shores v. Sklar*, 844 F.2d 1485, 1491 (11th Cir.), *vacated by* 855 F.2d 722 (11th Cir. 1988), *reinstated in relevant part by* 885 F.2d 760, 761 n.1 (11th Cir. 1989) (*en banc*); *see also Hunter v. Dep’t of Air Force*, 846 F.2d 1314, 1317 (11th Cir. 1988) (discussing our holding in *Shores*). Such a party must instead appeal the denial of

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intervention immediately, which, upon a successful appeal, would allow that party to appeal from an order on the merits. *See Purcell v. BankAtlantic Fin. Corp.*, 85 F.3d 1508, 1511 n.3 (11th Cir. 1996); *see Fed. Sav. & Loan Ins. Corp. v. Falls Chase Special Taxing Dist.*, 983 F.2d 211, 214 (11th Cir. 1993) (noting the that we have provisional jurisdiction under the “anomalous rule” to determine whether district court properly denied intervention).

“[A] federal court has no authority to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it.” *Zinni v. ER Solutions*, 692 F.3d 1162, 1166 (11th Cir. 2012) (quotation marks omitted). “[A]n issue is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief.” *Christian Coal. of Fla., Inc. v. United States*, 662 F.3d 1182, 1189 (11th Cir. 2011) (quotation marks omitted).

Here, because the Washingtons specifically requested to withdraw their first motion to amend, we review the amended petition included in the second motion as the operative petition in this case.

We deny the amended petition because the Washingtons are not entitled to mandamus or prohibition relief. The Washingtons have not shown a clear and indisputable right to Judge Merryday’s disqualification through mandamus because they have never been parties to, or intervenors in, the case presided over by Judge Merryday. Moreover, to the extent that they seek to

challenge Judge Merryday's denial of their motion to intervene and for disqualification, they had the adequate alternative remedy of immediately appealing Judge Merryday's order denying the motion.

Additionally, any claim that Judge Merryday unreasonably delayed in ruling on the Washingtons' motion to intervene and for disqualification is moot because Judge Merryday denied the motion in April 2025.

Accordingly, the Washingtons' instant amended petition is hereby **DENIED**. Their motion for judicial notice is therefore **DENIED** as moot. Their motion for sanctions is **DENIED** because Primerica is not a party to the mandamus/prohibition proceedings, and therefore, there is no need for Primerica's counsel "to make an appearance" in the instant proceedings.

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10482

In re: LAVONNE WASHINGTON,
MICHAEL WASHINGTON,

Petitioners.

On Petition for Writ of Mandamus to the
United States District Court for the
Middle District of Florida
D.C. Docket No. 8:24-cv-02433-SDM-NHA

Before JORDAN, BRANCH, and BRASHER, Circuit Judges.

BY THE COURT:

Lavonne and Micheal Washington (“the Washingtons”), proceeding pro se, have filed a motion for panel rehearing/reconsideration and rehearing en banc of our denial of their mandamus/prohibition petition. The Washingtons’ petition arose out of

a civil case initiated by their sister in the U.S. District Court for the Middle District of Florida, in which the Washingtons unsuccessfully moved to intervene and disqualify the presiding district court judge. In their petition, the Washingtons asked us to compel the district judge to disqualify or recuse himself from the case initiated by their sister.

During the mandamus/prohibition proceedings, the Washingtons moved us to take judicial notice of motions that LaVonne Washington and another individual filed in their own respective civil actions in the district court.

We denied the Washingtons' mandamus/prohibition petition because the Washingtons did not have a clear and indisputable right to their requested relief. Accordingly, we denied their motion for judicial notice as moot.

A party seeking panel rehearing or reconsideration must specifically allege any point of law or fact that this Court overlooked or misapprehended. *See* Fed. R. App. P. 40(b)(1)(A). In the district court context, this Court has held that "[a] motion for reconsideration cannot be used to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment." *Wilchombe v. TeeVee Toons, Inc.*, 555 F.3d 949, 957 (11th Cir. 2009) (quotation marks omitted).

Under this Court's rules, a petition for rehearing en banc of an unpublished order dismissing an appeal will not be considered. 11th Cir. R. 40-7(b).

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Writs of prohibition and mandamus, both authorized under 28 U.S.C. § 1651, are “two sides of the same coin with interchangeable standards.” *United States v. Pleau*, 680 F.3d 1, 4, (1st Cir. 2012) (en banc) (persuasive authority). They are used to compel a lower court to exercise its authority when duty demands it, or to confine a lower court to “a lawful exercise of its prescribed jurisdiction.” *United States v. Shalhoub*, 855 F.3d 1255, 1263 (11th Cir. 2017) (quotation marks omitted). These writs are available only in drastic situations, when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion. *Id.* at 1259; *Jackson v. Motel 6 Multipurpose, Inc.*, 130 F.3d 999, 1004 (11th Cir. 1997) (quotation marks 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. *See Mallard v. U.S. Dist. Court*, 490 U.S. 296, 309 (1989); *see also In re Wainwright*, 678 F.2d 951, 953 (11th Cir. 1982) (applying the same standard to writs of prohibition). These writs 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; *Wainwright*, 678 F.2d at 953.

“[A] federal court has no authority to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it.” *Zinni v. ER Solutions*, 692 F.3d 1162, 1166 (11th Cir. 2012) (quotation marks omitted). “[A]n issue is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief.” *Christian Coal. of Fla., Inc. v. United*

States, 662 F.3d 1182, 1189 (11th Cir. 2011) (quotation marks omitted).

We have carefully reviewed the Washingtons' request for panel rehearing/reconsideration, and that request is **DENIED**, as the Washingtons have failed to show any point of law or fact that we misapprehended or overlooked when: (1) determining that the Washingtons did not have a clear and indisputable right to their requested mandamus/prohibition relief; and (2) denying their motion for judicial notice as moot.

The Washingtons' request for rehearing of their petition en banc is hereby **DENIED** because, under our rules, unpublished orders dismissing an appeal are not considered en banc.

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