

HLD-128 (May 2010)

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 10-1674

REVEREND WESLEY CARROLL AND FAMILY,
Appellant

v.

ROBERT V. BARTH, JR., Clerk of Courts, Western District of Pennsylvania; THE
OFFICE OF THE CLERK OF WESTERN DISTRICT OF PENNSYLVANIA

On Appeal from the United States District Court
for the Western District of Pennsylvania
(W.D. Pa. Civil No. 09-cv-01465)
District Judge: Honorable Arthur J. Schwab

Submitted for Possible Summary Action
Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
May 28, 2010

Before: MCKEE, Chief Judge, SCIRICA and WEIS, Circuit Judges
Opinion filed: June 8, 2010

OPINION

PER CURIAM.

Reverend Wesley Carroll, a Pennsylvania state prisoner proceeding pro se,
appeals an order of the United States District Court for the Western District of
Pennsylvania dismissing his petition for a writ of mandamus and an order denying his

motion for reconsideration. We will affirm.

Carroll is a frequent filer of pro se actions in District Court, and appeals in this Court. The present appeal concerns a mandamus petition filed in District Court against the District Court Clerk and Office of the Clerk. Carroll alleged that the Clerk's Office is not filing and docketing his submissions.

A Magistrate Judge recommended that the petition be dismissed because it was repetitious of an earlier mandamus petition that the District Court had transferred to this Court and we denied. See In re Carroll, 272 Fed. Appx. 148 (3d Cir. 2008) (per curiam) (unpublished decision). Alternatively, the Magistrate Judge stated that the current mandamus petition should be dismissed for the reasons stated in our decision. We explained that Carroll's assertions were unsupported and noted that the court docket reflected a steady stream of submissions by Carroll. The Magistrate Judge further recommended the dismissal of the mandamus petition as to Carroll's family, who were named as petitioners but had not signed the petition. The District Court adopted the Magistrate Judge's report and recommendation to dismiss the mandamus petition and denied Carroll's motion for reconsideration. This appeal followed.

Mandamus relief is an extraordinary remedy requiring that a petitioner has no other adequate means to attain the desired relief and that he show a clear and indisputable right to the relief sought. DeMasi v. Weiss, 669 F.2d 114, 117 (3d Cir. 1982). No such showing was made here.

As in his earlier mandamus action, Carroll's claim that the District Court is not filing and docketing his submissions is unsupported. We also explained in that action that, to the extent Carroll is dissatisfied with how the District Court treats his submissions, the manner in which a court disposes of cases on its docket is within its discretion and Carroll is free to challenge on appeal the effect of the District Court's handling of a particular submission on a cause of action. See In re Carroll, 272 Fed. Appx. at 149 (citing In Re Fine Paper Antitrust Litigation, 685 F.2d 810 (3d Cir. 1982)). Thus, the District Court properly dismissed the mandamus petition and did not abuse its discretion in denying Carroll's subsequent motion for reconsideration.

Because this appeal does not raise a substantial question, we will summarily affirm the District Court's orders.