

Not For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE: RICHIE FONTAINE,
Petitioner.

S. Ct. Civ. No. 2018-0010
Re: Super. Ct. MC. No. 8/2017 (STT)

On Petition for Writ of Mandamus

Superior Court Judge: Hon. Kathleen Y. Mackay
Considered and Filed: June 18, 2018

BEFORE: **RHYS S. HODGE**, Chief Justice; **MARIA M. CABRET**, Associate Justice;
IVE ARLINGTON SWAN, Associate Justice.

APPEARANCE:

Richie Fontaine
Big Stone Gap, VA
Pro se.

ORDER OF THE COURT

PER CURIAM.

THIS MATTER is before the Court on a Petition for Writ of Mandamus filed by Richie Fontaine on February 12, 2018.¹ Fontaine requests that this Court

order the Superior Court to schedule a hearing, and to grant the Habeas Corpus so that the [Defendants] can be ordered . . . to fix his time sheet so that [he] will only have 30 years to serve, not the 70 years which is presently stated on his time sheet.

“[A] writ of mandamus is a drastic remedy which should be granted only in extraordinary circumstances. To obtain a writ of mandamus, [Fontaine] must establish that his right to the writ is clear and indisputable and that he has no other adequate means to attain the desired relief.” *In re Elliot* 554 V.I. 423, 428 (V.I. 2010). “A party possesses a ‘clear and indisputable’ right when

¹ Also before the Court is a motion to proceed in forma pauperis, which will be granted.

the relief sought constitutes a ‘specific ministerial act, devoid of the exercise of judgment or discretion.’” *Id.* at 429 (other citation omitted). “Furthermore ‘even if the first two prerequisites have been met, the issuing court, in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances.’” *Id.* at 428 (other citations omitted).

Fontaine has not met these requirements. According to the facts that Fontaine presents in this petition, the Nominal Respondent must fully review the terms of the final judgments imposed in at least four cases in order to determine whether the Bureau of Corrections misinterpreted those judgments.² And – again based solely on the facts Fontaine presents – a legal issue may conceivably arise because one of these sentences was imposed by the District Court of the Virgin Islands. Thus, Fontaine is not requesting that this Court order the Nominal Respondent to perform a ministerial duty devoid of the exercise of judgment. Moreover, he does not allege – and this Court cannot find – that he has no alternative basis for relief since he can appeal a denial of his habeas corpus petition to this court. *See In re Elliot* at 428 (“It is well established that petitions for writ of mandamus cannot substitute for the regular appeals process.”) (citations omitted).³ Accordingly, the premises considered it is hereby

ORDERED that Petitioner’s Motion to Proceed In Forma Pauperis is **GRANTED**; and it is further

² Fontaine has not provided the Bureau of Correction Time Sheet he is challenging, nor does he provide any copies of the sentences imposed in ST-09-CR-470, ST-089-CR-549, ST-10-CR177 and District Court Case 3:09-CR-00050 G-0001. See V.I.R.App.P. 13. *See* V.I.R.App.P. 13(a) (“The petition shall contain . . . copies of any order or opinion or parts of the record which may be essential to understand the matters set forth in the petition[.]”)

³ While Fontaine references the amount of time this petition has been pending, he focuses on the merits of the habeas corpus petition and does not request that this Court order the Nominal Respondent to simply rule on his petition.

ORDERED that this Petition for Writ of Mandamus is **DENIED**; and it is further

ORDERED that copies of this Order shall be distributed to the parties.

SO ORDERED this 18th day of June, 2018

ATTEST:

VERONICA J. HANDY, ESQ.
Clerk of the Court