

Not for Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE JENSEN ALEXANDER,

Petitioner.

S. Ct. Civ. No. 2018-0038

Re: Super. Ct. Civ. No. 506/2014 (STT)

On Petition for Writ of Mandamus
Superior Court Judge: Hon. Kathleen Y. Mackay
Considered and Filed: July 10, 2018

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

APPEARANCES:

Jensen Alexander,
Big Stone Gap, VA.

Pro se.

ORDER OF THE COURT

PER CURIAM.

THIS MATTER is before the Court on a Petition for a Writ of Mandamus filed by Jensen Alexander. Alexander requests an Order requiring the Nominal Respondent, the judge presiding over his petition for a writ of habeas corpus *Alexander v. Rick Mullgrav, in his capacity as Director of the Bureau of Corrections, Government of the Virgin Islands*, Super. Ct. Civ. No. 506/2014 (STT), “to schedule a hearing, and to issue an order making sure that Mr. Alexander is physically present.” Pet. at 1. On June 6, 2018, the Nominal Respondent issued two orders: one granting the Office of the Territorial Public Defender’s motion to withdraw and appointed new counsel, and the other setting an evidentiary hearing for July 30, 2018. The order setting an evidentiary hearing requires the Bureau of Corrections to make necessary arrangements for the Petitioner to appear by video conference. Based on these orders, the Court will dismiss Alexander’s request for an order setting a hearing date as moot and deny Alexander’s request for an order requiring that he physically appear at the hearing.

This Court has jurisdiction over original proceedings for mandamus. 4 V.I.C. § 32(b). However, a writ of mandamus is a drastic remedy which should be granted only in extraordinary circumstances. *In re LeBlanc*, 49 V.I. 508, 516 (V.I.2008). To obtain a writ of mandamus, a petitioner 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. *Id.* at 517. 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.” *Cheney v. U.S. Dist. Court for D. C.*, 542 U.S. 367, 380–81 (2004).

“If the purported ‘ministerial duty’ is a judge’s duty to issue legally-correct rulings, mandamus is only appropriate ‘to correct judicial action that is clearly contrary to well-settled law’—specifically, decisions that ‘ignore[] clear, binding precedent from a court of superior jurisdiction.’” *In re Morton* 56 V.I. 313, 319-320 (2012) quoting *In re People of the V.I.*, 51 V.I. at 387 (other quotation omitted). Here, Alexander only argues that the plain language of title 5 sections 1305¹ and 1309² of the Virgin Islands Code require the Bureau of Corrections to physically bring him to the Superior Court for his evidentiary hearing. However, he only supports this argument by summarily interpreting the language “have the body of such person before the court” to mean “have the body of such person physically inside the courtroom.” Moreover, Alexander ignores Virgin Islands Habeas Corpus Rule 2(g)(3), which authorizes a prisoner’s

¹ “The writ [of habeas corpus] shall be directed to the person having custody of or restraining the person on whose behalf the application is made, and shall command him to have the body of such person before the court before which the writ is returnable, at a time and place therein specified” 5 V.I.C. § 1305.

² “The person or officer on whom the writ is served shall bring the body of the party in his custody or under restraint, according to the command of the writ.” 5 V.I.C. § 1309

appearance by videoconference, subject to certain conditions. Because “the party requesting a writ of mandamus bears the burden of proving that issuance of such a writ is warranted,” (see *In re LeBlanc*, 49 V.I. at 517), Alexander’s failure to direct this Court to any relevant case law conclusively supporting his interpretation of sections 1305 and 1309 justifies a denial of this request for extraordinary mandamus relief. *In re Morton* at 320 (other citations omitted.). Accordingly, the premises considered, it is hereby

ORDERED that Alexander’s Petition for Writ of Mandamus ordering the Nominal Respondent to schedule an evidentiary hearing is **DISMISSED AS MOOT**; and it is further

ORDERED that Alexander’s Petition for a Writ of Mandamus ordering the Nominal Respondent to issue an order requiring that he be physically present at the hearing is **DENIED**; and it is further

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

SO ORDERED this 10th day of July, 2018.

ATTEST:

VERONICA J. HANDY, ESQ.
Clerk of the Court