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In Re: Frederick Banks

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 16-4166

IN RE: FREDERICK H. BANKS,
Petitioner

On a Petition for Writ of Mandamus

Submitted Pursuant to Fed. R. App. Pro. 21
January 26, 2017

Before: FISHER, SHWARTZ and GREENBERG, Circuit Judges

(Opinion filed: January 31, 2017)

OPINION*

PER CURIAM

Petitioner, Frederick Banks, a federal prisoner at FCI-Butner, filed a document entitled “Petition for a Writ of Mandamus Against the Federal Bureau of Prisons.” For the following reasons, we will dismiss the petition for lack of jurisdiction.

In his petition, Banks complains that an odor coming from the prison’s Food Service Department’s kitchen, which prison staff allegedly stated is emanating from the

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

sewer, is making him “violently ill.” Banks seeks an order directing FCI-Butner, its Warden, and the Bureau of Prisons (BOP) “to repair or replace and correct the problems and pay damages to Banks.”

We lack jurisdiction to grant the relief requested. The All Writs Act allows the issuance of writs “necessary or appropriate in aid of” our jurisdiction. 28 U.S.C. § 1651. We are bound by the extent of our “subject-matter jurisdiction over the case or controversy.” United States v. Denedo, 556 U.S. 904, 911 (2009). As Banks asks, essentially, that we “compel an officer or employee of the United States or [an] agency thereof to perform a duty” he alleges is owed to him, original jurisdiction is vested in the District Court, not with us. See 28 U.S.C. § 1361; see also Massey v. United States, 581 F.3d 172, 174 (3d Cir. 2009) (where “a statute specifically addresses the particular issue at hand, it is that authority, and not the All Writs Act, that is controlling”).

Accordingly we will dismiss the petition for writ of mandamus.