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In Re: Michael West

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 17-3002

IN RE: MICHAEL WEST,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of New Jersey
(Related to D.N.J. Civ. No. 1-16-cv-08701)

Submitted Pursuant to Rule 21, Fed. R. App. P.
November 30, 2017
Before: MCKEE, VANASKIE, and SCIRICA, Circuit Judges

(Opinion filed: March 2, 2018)

OPINION*

PER CURIAM

Pro se petitioner Michael West is currently serving a sentence for distribution and possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(2)(A) and (a)(5)(B). In November 2016, West filed a petition pursuant to 28 U.S.C. § 2241 in the

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

United States District Court for the District of New Jersey challenging the Bureau of Prison's calculation of his sentence. West later moved to amend his petition to add a claim that his convictions should be vacated because the district court that presided over the criminal matter lacked jurisdiction to convict him. While his motion to amend was pending, the Government submitted an answer to West's § 2241 petition.

West then filed this petition for a writ of mandamus alleging that the Government had failed to address his contention that the criminal court lacked jurisdiction to convict him. Shortly thereafter, the District Court denied West's motion to amend his petition to include this claim, explaining that he may not challenge his conviction and sentence via § 2241. West's habeas petition remains pending in the District Court.

We will deny the petition.¹ Mandamus is an extraordinary remedy that we grant only when the petitioner has a "clear and indisputable" right to relief and "no other adequate means" to obtain it. In re Briscoe, 448 F.3d 201, 212 (3d Cir. 2006); see also In re Kensington Int'l Ltd., 353 F.3d 211, 219 (3d Cir. 2003). West has not demonstrated that he has "no other adequate means" to obtain the requested relief, as he may object to any errors in his case on appeal from a final judgment.²

Accordingly, the petition for writ of mandamus will be denied.

¹ We have jurisdiction over this mandamus petition pursuant to 28 U.S.C. § 1651.

² We express no opinion on the merit of any claims raised in such appeal.