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2019 Decisions

Opinions of the United  
States Court of Appeals  
for the Third Circuit

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4-5-2019

## In Re: Frederick Banks

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 19-1263

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IN RE: FREDERICK H. BANKS,  
Petitioner

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On a Petition for Writ of Mandamus from the  
United States District Court for the Western District of Pennsylvania  
(Related to W.D. Pa. Crim. No. 2-15-cr-00168-001)

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Submitted Pursuant to Rule 21, Fed. R. App. P.  
March 7, 2019

Before: CHAGARES, RESTREPO, and SCIRICA, Circuit Judges

(Opinion filed: April 5, 2019)

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OPINION\*

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PER CURIAM

Frederick Banks is currently awaiting trial in the United States District Court for the Western District of Pennsylvania on charges of interstate stalking, 18 U.S.C. § 2261(a)(2), aggravated identity theft, § 1028A(a)(1), making false statements, § 1001(a)(3), and wire fraud, § 1343.

On January 21, 2019, Banks filed a petition for a writ of mandamus in this Court.

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

Banks states that in December 2018, he filed a motion in the District Court seeking reimbursement for expenses incurred in the criminal action, including postage, envelopes, paper, and pens. The District Court denied his request. Banks now asks us to order the District Judge to “perform his clear legal duty and enter an order granting [his] motion for reimbursement.”

We will deny Banks’s petition. Mandamus is a drastic remedy available in only extraordinary circumstances, and may not be used as a substitute for an appeal. In re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378-79 (3d Cir. 2005). Because the District Court’s order was reviewable on appeal, mandamus relief is not appropriate.<sup>1</sup> See In re Kensington Int’l Ltd., 353 F.3d 211, 219 (3d Cir. 2003) (“If, in effect, an appeal will lie, mandamus will not.”).

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<sup>1</sup> We express no opinion on whether, should Banks seek appellate review, his appeal would be timely or otherwise within our jurisdiction, or whether the appeal would have merit.