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In Re: Claude Townsend

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 14-3368

IN RE: CLAUDE TOWNSEND,

Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the District of New Jersey
(Related to D.C. Civ. No. 12-cv-02158)

Submitted Pursuant to Rule 21, Fed. R. App. P.
August 14, 2014

Before: AMBRO, CHAGARES and VANASKIE, CIRCUIT JUDGES

(Opinion filed: August 27, 2014)

OPINION

PER CURIAM

On January 15, 2014, we issued a judgment vacating the District Court's order affirming the denial of Social Security benefits to petitioner Claude Townsend, and directing the District Court to remand the matter to the Commissioner of Social Security for further proceedings. See Townsend v. Sec'y U.S. Dep't of Health & Human Servs., 553 F. App'x 166 (3d Cir. 2014). In lieu of a mandate, a certified copy of the judgment was filed on March 10, 2014. Pursuant to L. Civ. R. 79.4, the District Court notified the

parties that if the mandate or judgment “directs a disposition other than an affirmance, the prevailing party shall submit an order implementing the mandate or judgment.”

Accordingly, Townsend, as the prevailing party, was required to submit to the District Court a proposed order remanding the matter to the Commissioner. Apparently failing to understand the notice, Townsend failed to comply. Instead, on July 24, 2014, Townsend filed the instant mandamus petition, seeking an order directing the District Court to remand the matter to the Commissioner.

Our jurisdiction derives from 28 U.S.C. § 1651, which grants us the power to “issue all writs necessary or appropriate in aid of (our) . . . jurisdiction and agreeable to the usages and principles of law.” A writ of mandamus is an extreme remedy that is invoked only in extraordinary situations. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976). To justify the use of this extraordinary remedy, a petitioner must show both a clear and indisputable right to the writ and that he has no other adequate means to obtain the relief desired. See Haines v. Liggett Grp. Inc., 975 F.2d 81, 89 (3d Cir. 1992). Townsend clearly has an adequate means of obtaining the relief he desires. As the District Court noted in its “Judicial Notice” to Townsend filed on July 29, 2014, upon the filing of a proposed order by Townsend, the matter will be remanded to the Commissioner. Accordingly, we will deny the mandamus petition.