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5-18-2007

**In Re: Janet Francis**

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 07-1782

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IN RE: JANET FRANCIS,

Petitioner

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On a Petition for Writ of Mandamus from the  
United States District Court for the District of New Jersey  
(Related to Civ. No. 05-cv-04484)

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Submitted Under Rule 21, Fed. R. App. P.  
April 26, 2007

BEFORE: BARRY, AMBRO and FISHER, Circuit Judges

(Filed: May 18, 2007)

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OPINION

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PER CURIAM

Janet Francis, a former Guidance Counselor Technician in the Department of the Army Technician Program, filed a mandamus petition with this Court on March 19, 2007. She argues that she was discharged from her position in violation of numerous Constitutional rights and seeks an order requiring her reinstatement.

Mandamus is a drastic remedy granted only in extraordinary cases. See In

re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378 (3d Cir. 2005). To prevail, the petitioner must establish that she has “no other adequate means” to obtain relief and that she has a “clear and indisputable” right to issuance of the writ, and the reviewing court must determine that the writ is appropriate under the circumstances. Id. at 378-79. Mandamus cannot be used as a substitute for appeal. See, e.g., Id. At 372.

In 2005, Petitioner filed a civil suit in the United States District Court seeking reinstatement and money damages based on essentially the same facts alleged in her mandamus petition. D.N.J. Civ. No. 05-cv-04484. The District Court dismissed her complaint, and Francis filed two appeals, which are currently pending before this Court. C.A. Nos. 06-2793 and 06-2920. These pending appeals clearly provide an adequate means for her to seek the relief requested in her mandamus petition. Therefore, the petition for a writ of mandamus is denied.