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In re Terrelle Nelson

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-2631

IN RE: TERRELLE NELSON,
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. 1-17-cv-05083)

Submitted Pursuant to Rule 21, Fed. R. App. P.
August 8, 2019

Before: SMITH, Chief Judge, AMBRO and ROTH, Circuit Judges

(Opinion filed: October 3, 2019)

OPINION*

PER CURIAM

Terrelle Nelson filed a petition for a writ of mandamus to compel the District Court to rule on the proceedings relating to his motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. By opinion and separate order entered September 6, 2019, the District Court denied Nelson's § 2255 motion, and dismissed as moot the

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

pending motions. In light of the District Court's action, this mandamus petition no longer presents a live controversy. Therefore, we will dismiss it as moot. See Blanciak v. Allegheny Ludlum Corp., 77 F.3d 690, 698-99 (3d Cir. 1996) ("If developments occur during the course of adjudication that eliminate a plaintiff's personal stake in the outcome of a suit or prevent a court from being able to grant the requested relief, the case must be dismissed as moot.").

After the District Court ruled, Nelson submitted a "Supplemental Memorandum in Support of Writ of Mandamus" in which he essentially challenges the District Court's disposition of his § 2255 claims and related motions. To the extent that he presents an additional argument for mandamus relief, we decline to grant relief because mandamus may not be used as a substitute for an appeal. See In re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378-79 (3d Cir. 2005).

Because it appears from the "Supplemental Memorandum" that Nelson is expressing an intention to appeal, the Clerk of Court is directed to forward the document to the Clerk of the District Court for the District of New Jersey to be treated as a notice of appeal from the District Court order entered September 6, 2019, in D.N.J. Civ. No. 17-cv-05083. See 3d Cir. L.A.R. 3.4. We note that the document was placed in prison mail on September 17, 2019, and should be docketed as of that date.