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States Court of Appeals  
for the Third Circuit

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6-17-2014

## In Re: Matthew Tucker

Precedential or Non-Precedential: Non-Precedential

Docket No. 14-1699

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 14-1699

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IN RE: MATTHEW TUCKER,  
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 D.N.J. Civ. No. 13-cv-04417)

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Submitted Pursuant to Rule 21, Fed. R. App. P.  
May 22, 2014

Before: SMITH, HARDIMAN and NYGAARD, Circuit Judges

(Opinion filed: June 17, 2014)

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OPINION

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PER CURIAM

Matthew Tucker, proceeding pro se, has filed a petition for a writ of mandamus seeking to compel the United States District Court for the District of New Jersey to rule on a motion to proceed in forma pauperis. For the reasons that follow, we will deny the petition.

Tucker states that he filed a complaint and a motion to proceed in forma pauperis in District Court on July 19, 2013 in D.N.J. Civ. No. 13-cv-04417, and that the District

Court has not ruled on his motion. Although his mandamus petition and the supplements thereto are difficult to read, Tucker also appears to state that he has motions to proceed in forma pauperis pending in other matters as well.

The District Court docket reflects that on April 11, 2014, the District Court entered an order addressing Tucker's filings in ten open cases before the Court. In this order, the District Court noted Tucker's history of frivolous litigation, the extensive filings in the current open cases, and the Court's inability to determine the claims Tucker seeks to assert. The District Court administratively terminated Tucker's cases and afforded him an opportunity to file one new amended complaint in each case. The District Court also granted Tucker's motions to proceed in forma pauperis in the nine cases in which his applications were properly filed, including No. 13-cv-04417, and directed him to either submit a completed application or pay the filing fee in the remaining case.

In light of the District Court's order, Tucker's mandamus petition is moot. To the extent Tucker seeks damages based on the delay in ruling, his request is denied. See In re Baldwin, 700 F.3d 122, 126 (3d Cir. 2012) ("We ordinarily may issue 'the writ only to confine inferior courts to their lawful jurisdiction or to compel them to exercise authority when they have a duty to do so.'" (citations omitted)). To the extent Tucker seeks to challenge the District Court's April 11, 2014 order in his supplemental filings in this Court, Tucker can appeal that order with a properly-filed notice of appeal. Mandamus is not a substitute for an appeal. In re Briscoe, 448 F.3d 201, 212 (3d Cir. 2006).

Accordingly, we will deny the petition for a writ of mandamus. Tucker's remaining motions are also denied.