

Not For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE: PATRICK RILEY,) S. Ct. Civ. No. 2020-0075
Petitioner.) Re: Super. Ct. Misc. No. 43/2019 (STT)
_____)

On Petition for Writ of Mandamus
Superior Court Judge: Hon. Kathleen Y. Mackay

Considered and Filed: August 29, 2024

Cite as: 2024 VI 1U

BEFORE: RHYS S. HODGE, Chief Justice; MARIA M. CABRET, Associate Justice;
IVE ARLINGTON SWAN, Associate Justice; and HAROLD W.L.
WILLOCKS, Associate Justice.

APPEARANCES:

Patrick Riley
Big Stone Gap, VA
Pro se,

Michael R. Francisco, Esq.
Assistant Attorney General
St. Thomas, U.S.V.I.
Attorney for Respondent.

OPINION OF THE COURT

PER CURIAM.

This matter is before the Court on a petition for writ of mandamus filed by Patrick Riley. In his petition, Riley maintains that the Superior Court judge assigned to his underlying habeas corpus petition, *Riley v. Gov't of the V.I.*, Super. Ct. Civ. No. 43/2019 (STT) (the “Nominal Respondent”), has failed to rule in a timely manner. For the reasons that follow, we grant the petition and direct the Nominal Respondent to issue a final judgment in the underlying proceeding within 60 days or take other meaningful action to further disposition of Riley’s case in that period.

I. BACKGROUND

On July 31, 2019, Riley filed a petition for writ of habeas corpus with the Superior Court, which requested that it set aside an unspecified judgment on grounds that he received ineffective assistance of counsel during trial. The Government of the Virgin Islands did not file a response to the petition, and the Nominal Respondent issued no orders or rulings for more than a year. Thus, on July 8, 2020, Riley filed the instant petition for writ of mandamus with this Court, which asks that this Court issue a writ to order the Nominal Respondent “to process, hear, and decide” the habeas corpus action “without further delay.” (Pet. 6.)

After Riley filed his mandamus petition, the Nominal Respondent still did not issue any orders at all in the habeas corpus case. Therefore, this Court issued a March 3, 2021 order that directed the Government, and permitted the Nominal Respondent, to file an answer to the mandamus petition. In lieu of filing an answer, the Nominal Respondent, through the Clerk of the Superior Court, notified this Court of entry of a March 22, 2021 scheduling order in the habeas corpus action that directed the Government to file an informal response within 45-days together with copies of the record in the underlying criminal case, and for Riley to file a reply to that response within 45-days from the date of service.

The Government complied with the March 22, 2021 order by filing its informal response and the requested portions of the record on May 4, 2021, and Riley likewise filed his reply on June 24, 2021. While more than three years have passed since the parties filed these documents, the Nominal Respondent has not issued a ruling or entered any other orders in the habeas corpus action.

II. DISCUSSION

This Court has jurisdiction over original proceedings for mandamus pursuant to title 4, section 32(b) of the Virgin Islands Code. “However, a writ of mandamus is a drastic remedy which

should be granted only in extraordinary circumstances.” *In re Morton*, 56 V.I. 313, 319 (V.I. 2012). “To obtain a writ of mandamus, [the petitioner] must establish that his right to the writ is clear and indisputable and that he has no other adequate means to attain the desired relief.” *In re Fleming*, 56 V.I. 460, 464 (V.I. 2012). But “even if the first two prerequisites have been met, the issuing court, in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances.” *Moorhead v. Mapp*, 62 V.I. 595, 600 (V.I. 2015) (quoting *Cheney v. U.S. Dist. Court*, 542 U.S. 367, 380-81 (2004)).

We conclude that Riley has met his burden as to all three factors. “A party possesses a ‘clear and indisputable’ right when the relief sought constitutes a ‘specific, ministerial act, devoid of the exercise of judgment or discretion.’” *Fleming*, 56 V.I. at 464; *Morton*, 56 V.I. at 319; *In re People of the V.I.*, 51 V.I. 374, 387 (V.I. 2009) (quoting *Dunn-McCampbell Royalty Interest, Inc. v. Nat’l Park Serv.*, 112 F.3d 1283, 1288 (5th Cir. 1997)). As this Court has previously explained, the failure of a Superior Court judge to issue a ruling in a timely manner may rise to the level of a breach of a ministerial duty:

Because “the manner in which a court disposes of cases on its docket is within its discretion,” a trial court’s delay in ruling on a motion will generally not warrant mandamus relief. *In re Robinson*, 336 Fed. Appx. 171, 172 (3d Cir. 2009). “Nonetheless, mandamus may be warranted when a [trial] [c]ourt’s ‘undue delay is tantamount to a failure to exercise jurisdiction.’” *Id.* (quoting *Madden v. Myers*, 102 F.3d 74, 79 (3d Cir.1982)). In other words, “[w]hile it is a basic premise that an appellate court lacks the power to compel a trial judge to do a particular act involving or requiring discretion on his part, this Court is empowered to order a trial judge to exercise his discretion in some manner.” *O’Donniley v. Golden*, 860 S.W.2d 267, 269 (Tex. App. 1993).

In re Elliot, 54 V.I. 423, 429 (2010). The need for a judge to issue a ruling in a timely manner is particularly important in habeas corpus cases, given that the Legislature has mandated that habeas petitions receive expedited consideration. See 5 V.I.C. § 1304 (“The court authorized to grant the

writ, to whom a petition therefor is presented, shall grant the same *without delay*, if it appears that the writ ought to issue.”) (emphasis added).

This Court has already held that the failure of a Superior Court judge to take substantive action on habeas corpus petitions for 18 months or longer generally constitutes a breach of the ministerial duty to issue a ruling in a timely manner. *See In re Gillette*, 64 V.I. 440, 444 (V.I. 2016); *Fleming*, 56 V.I. at 466; *Elliot*, 54 V.I. at 430-31. We recognize, of course, that in certain circumstances such a lengthy delay may be excused if there is a legitimate reason for the delay, such as the petitioner filing “a flurry of complex or frivolous motions” or difficulty in obtaining the record. *Fleming*, 56 V.I. at 466. But there appears no legitimate reason for delay at all in this case. Riley has not filed any documents with the Superior Court other than his habeas corpus petition and his timely-filed reply to the Government’s informal response. And while Riley’s initial habeas corpus petition did not include the case number for his underlying criminal conviction, the Government filed a copy of the judgment and conviction as well as other relevant portions of the record together with its informal response on May 4, 2021.

We also find with Riley that he lacks any other adequate means of obtaining a ruling on his petition for writ of habeas corpus, other than mandamus relief from this Court. The breach of ministerial duty that Riley alleges—a failure to rule—is one that this Court cannot review on direct appeal, given that the Nominal Respondent’s continued failure to rule precludes entry of an appealable final judgment. *Fleming*, 56 V.I. at 466 (citing *Elliot*, 54 V.I. at 425). And because the Nominal Respondent has only entered one order in this case, which simply set filing deadlines, there are no practical avenues for attaining relief that have been untried. *See In re People of the V.I.*, 55 V.I. 851, 858 (V.I. 2011).

Finally, we conclude that issuance of a writ of mandamus is appropriate under the circumstances. “To determine whether a writ of mandamus is appropriate under the circumstances, we consider factors including, but not limited to, the public interest, the importance or unimportance of the question presented, and equity and justice.” *In re People*, 51 V.I. at 393 (collecting cases). As we noted earlier, the Legislature has mandated that the Superior Court consider petitions for writ of habeas corpus “without delay.” 5 V.I.C. § 1304. Consequently, granting mandamus relief in this case would not simply further Riley’s private interests, but would “effectuate[] the intent of the Legislature” and “assist[] in the administration of justice.” *Elliot*, 54 V.I. at 432. *See also McGuinness v. Pepe*, 150 F. Supp. 2d 227, 230 n.8 (D. Mass. 2001) (“[A] habeas petitioner who has, in fact, been deprived of liberty unconstitutionally suffers irreparable injury enduring each day of wrongful incarceration.”).

III. CONCLUSION

We find that Riley has a clear and indisputable right to have the Nominal Respondent rule on his habeas corpus petition since we cannot find any legitimate excuse for the nearly one and one-half year delay. Furthermore, Riley lacks an adequate alternate means of obtaining redress. Accordingly, since the public interest and other considerations strongly support mandamus relief, this Court shall issue a writ of mandamus directing the Nominal Respondent to issue a final judgment on Riley’s habeas corpus petition within 60 days of the date of this Opinion or take other meaningful action to further the disposition of Riley’s case in that period.

Dated this 29th day of August, 2024.

ATTEST:

VERONICA J. HANDY, ESQ.
Clerk of the Court

By: /s/ Jahkyda Coakley
Deputy Clerk II

Dated: August 29, 2024