

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

Miscellaneous Docket No. 891

IN RE CAROL A. MURPHY,

Petitioner.

On Writ of Mandamus from the United States Court of Federal Claims in case no. 08-CV-343, Judge Lynn J. Bush.

ON PETITION FOR WRIT OF MANDAMUS

Before GAJARSA, LINN, and PROST, Circuit Judges.

PER CURIAM.

ORDER

Carol A. Murphy petitions for a writ of mandamus to compel the United States Court of Federal Claims to hear her case and moves for leave to proceed in forma pauperis.

On May 9, 2008, Murphy filed a complaint in the United States Court of Federal Claims alleging that six federal judges violated her due process and constitutional rights in their rulings in her cases. On May 29, 2008, the court removed her case from the court and referred it to the court's chief judge for consideration as a complaint of judicial misconduct. This petition for writ of mandamus followed.

The remedy of mandamus is available only in extraordinary situations to correct a clear abuse of discretion or usurpation of judicial power. In re Calmer, Inc., 854 F.2d 461, 464 (Fed. Cir. 1988). A party seeking a writ bears the burden of proving that it has no other means of attaining the relief desired, Mallard v. U.S. Dist. Court for the Southern Dist. of Iowa, 490 U.S. 296, 309 (1989), and that the right to issuance of the

writ is "clear and indisputable." Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980).

Murphy fails to meet her burden of establishing the two requirements for mandamus. First, we are not persuaded that the Court of Federal Claims erred in determining that Murphy's civil complaint was actually a complaint of judicial misconduct. Therefore, Murphy has not shown that her right to a particular result is clear and indisputable. Allied Chemical, 449 U.S. at 35. Second, because Murphy could have pursued her dispute through an ordinary appeal, she is unable to demonstrate that she had no alternative means of obtaining the relief requested.

Accordingly,

IT IS ORDERED THAT:

- (1) Murphy's petition is denied.
- (2) Murphy's motion to proceed in forma pauperis is denied as moot.

FOR THE COURT

FEB 6 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

cc: Carol A. Murphy
Stephen C. Tosini, Esq.

FEB 06 2009

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JAN HORBALY
CLERK