

Related Background Information:

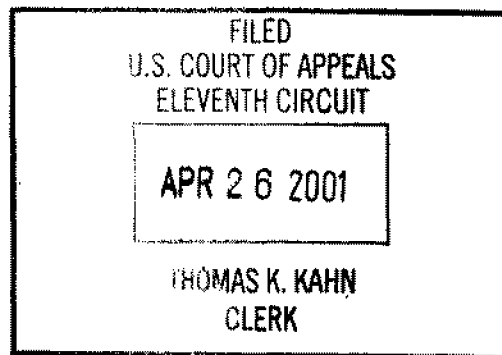
This document is part of a series in which gross misconduct by Judge Donald L. Graham and Magistrate Frank Lynch Jr. is documented at <http://secretlaw.com>, <http://donaldlgraham.blogspot.com>, and <http://geocities.com/mcneilmason>. These websites allege and **document** gross misconduct which would otherwise be incredulous and beyond belief. These websites demonstrate that federal judges will lie to protect themselves and each other and conceal their misconduct through the use of unpublished decisions. Please refer members of the legal community to the websites <http://secretlaw.com>, <http://donaldlgraham.blogspot.com>, and <http://geocities.com/mcneilmason>.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 01-11305-H

Dist.Ct. Docket No. 99-14027-CV-DLG



IN RE:

MARCELLUS M. MASON, JR.

Petitioner.

On Petition for Writ of Mandamus to the
United States District Court for the
Southern District of Florida

ORDER:

Marcellus M. Mason, Jr. petitions this Court to file a writ of mandamus in forma pauperis ("IFP"), attaching an affidavit of indigency. Mason requests that this Court enter orders compelling the district court to rule on his motion for preliminary injunction, and vacating the district court's orders granting the defendants' motions for preliminary injunction.

Mason seeks to file this mandamus petition pursuant to 28 U.S.C. § 1915(a). That statute provides that any court of the United States may authorize the commencement of a proceeding without prepayment of fees by a person who submits a affidavit that includes a statement of assets that the person possesses and that the person is unable to pay such fees. The Court, however, may

dismiss the case at any time if it determines that the allegation of poverty is untrue or the action or appeal is frivolous. See § 1915(e)(2)(A) & (B).

Mandamus is an extraordinary remedy that may not be used as a substitute for appeal, or to control decisions of the district court in discretionary matters. Jackson v. Motel 6 Multipurpose, Inc., 130 F.3d 999, 1004 (11th Cir. 1997). Mandamus is available “only in drastic situations, when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion.” Id. The petitioner has the burden of showing that the claimed right to issuance of the writ is clear and indisputable. In re Lopez-Lukis, 113 F.3d 1187, 1188 (11th Cir. 1997).

In this case, Mason has established poverty by way of an affidavit of indigency. His mandamus petition, however, is frivolous because he has failed to establish that he is entitled to mandamus relief to compel the district court to rule on his motion for preliminary injunction. With regard to his requests for relief from the order granting the defendants' motions for preliminary injunction, which the court construed as a preliminary discovery motion, Mason has an alternative remedy. He may either comply with the district court's discovery order and challenge it on appeal from the final judgment, or refuse to comply with the order and challenge its validity if cited for contempt. See Rouse Constr. Int'l, Inc. v. Rouse Constr. Corp., 680 F.2d 743, 745 (11th Cir. 1982).

Accordingly, his IFP motion is **DENIED**.

/s/ ED CARNES
UNITED STATES CIRCUIT JUDGE