

Not For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE: JOSAYO WILLIAMS,) **S. Ct. Civ. No. 2015-0079**
Petitioner.) Re: Super. Ct. Crim. No. 602/2012 (STX)
_____)

On Petition for Writ of Mandamus
Superior Court Judge: Hon. Adam G. Christian

Considered and Filed: February 2, 2016

BEFORE: **RHYS S. HODGE**, Chief Justice; **MARIA M. CABRET**, Associate Justice; and
IVE ARLINGTON SWAN, Associate Justice.

APPEARANCES:

H.A. Curt Otto, Esq.
H.A. Curt Otto, P.C.
St. Croix, U.S.V.I.
Attorney for Petitioner,

Samuel A. Walker, Esq.
Deputy Solicitor General
St. Croix, U.S.V.I.
Attorney for Respondent People of the Virgin Islands.

OPINION OF THE COURT

PER CURIAM.

THIS MATTER is before the Court on a petition for writ of mandamus filed by Josayo Williams, the defendant in *People v. Williams*, Super. Ct. Crim. No. 602/2012 (STX). Williams requests that this Court issue a writ directing the judge currently presiding over that case—the Nominal Respondent—“to dismiss the pending criminal action for failure to provide a speedy trial, and . . . to immediately enter an order of dismissal.” (Pet. 1.)

I. PROCEDURAL BACKGROUND

Williams was arrested on December 7, 2012 and, at his January 9, 2013 arraignment, he pled not guilty and requested a speedy jury trial. Williams filed a “Motion for Trial to be

Calendared to Avoid Speedy Trial Issues” on April 2, 2013. On September 25, 2013, the judge presiding over his criminal case recused, and a new judge was subsequently assigned. On October 29, 2013, Williams filed a “Request for Trial Date.” However, on December 6, 2014, the successor judge also recused. On December 16, 2013, Williams filed a “Request for Assignment of Judge and for Trial Date.” On May 30, 2014, another judge recused from the case, resulting in the matter being assigned to the Nominal Respondent. Williams then renewed his speedy trial motion on July 23, 2014, and on October 30, 2014, filed a “Motion to Dismiss Based on Failure to Provide a Speedy Trial, or, in the Alternative, Motion for Trial to be Calendared.” He subsequently renewed that motion on January 23, 2015.

On February 3, 2015, the Nominal Respondent issued an order requiring the People of the Virgin Islands to respond to the January 23, 2015 motion. The People did so on February 19, 2015. However, the Nominal Respondent never ruled on the motion. On August 12, 2015, Williams filed a renewed motion to dismiss his criminal case on speedy trial grounds. When the Nominal Respondent failed to issue a ruling, Williams filed a petition for writ of mandamus with this Court on October 1, 2015. To date, it appears that all of Williams’s motions remain pending.

II. DISCUSSION

This Court has jurisdiction over original proceedings for mandamus pursuant to title 4, section 32(b) of the Virgin Islands Code. “[A] writ of mandamus is a drastic remedy which should be granted only in extraordinary circumstances. 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) (citing *In Re LeBlanc*, 49 V.I. 508, 516, 517 (V.I. 2008)). “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) (citing *In re Joseph*, S. Ct. Civ. No. 2013-0015, 2013 V.I. Supreme LEXIS 14, at *8 (V.I. Apr. 5, 2013)(unpublished) (quoting *Cheney v. U.S. Dist. Court*, 542 U.S. 367, 380-81 (2004); *In re Najawciz*, S. Ct. Civ. No. 2012-0112, 2012 V.I. Supreme LEXIS 75, at *3-4 (V.I. Oct. 10, 2012) (unpublished))).

We conclude that Williams has failed to meet his burden. As to the first prerequisite, “[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.” *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)).

In this case, Williams has not asked this Court to issue a writ ordering the Nominal Respondent to simply rule on any of the pending motions; rather, Williams requests that we order the Nominal Respondent to grant his motion to dismiss. This Court has consistently held that “[i]f the purported ‘ministerial duty’ is a judge’s duty to issue legally-correct rulings, mandamus is only appropriate ‘to correct judicial action that is clearly contrary to well-settled law’ – specifically, decisions that ‘ignore[e] clear, binding precedent from a court of superior jurisdiction.” *In re People*, 51 V.I. at 387 (quoting *State ex rel. Healey v. McMeans*, 884 S.W.2d 772, 774 (Tex. Crim. App. 1994)). Williams does not cite to any clear binding precedent from this Court or the United States Supreme Court stating that the delay of his trial under the exact circumstances he presents constitutes a *per se* violation of his right to a speedy trial, such that the dismissal of the criminal action is a purely ministerial act devoid of any discretion. On the contrary, “[t]he right of a speedy trial is necessarily relative . . . and depends upon circumstances. It secures rights to a defendant. It does not preclude the rights of public justice.” *Francis v. People*, S. Ct. Crim. No. 2015-0002, ___ V.I. ___, 2015 V.I. Supreme LEXIS 35, at *50 (V.I. Oct. 23, 2015) (quoting *Beavers v. Haubert*,

198 U.S. 77, 87 (1905)). Because speedy-trial claims are inherently fact-specific, we agree with the courts that have held that mandamus may not be used to enforce a defendant's right to a speedy trial, and that the merits of such claims should instead be considered on direct appeal. *See, e.g., State ex rel. Hamilton v. Brunner*, 825 N.E.2d 607, 609 (Ohio 2005); *Pope v. Ferguson*, 445 S.W.2d 950, 955-56 (Tex. 1969). Moreover, it has been long established as a matter of common law that

the remedy of mandamus “may be appropriately used and is often used to compel courts to act where they refuse to act and ought to act, but not to direct and control the judicial discretion to be exercised in the performance of the act to be done; to compel courts to hear and decide where they have jurisdiction, but not to pre-determine the decision to be made; [and] to require them to proceed to judgment, but not to fix and prescribe the judgment to be rendered.”

Page v. Clopton, 71 Va. (30 Gratt.) 415, 417-18 (Va. 1878) (observing that “these principles are recognized and illustrated by multitudes of decisions, English and American,” including those of the Supreme Court of the United States, and citing *United States v. Lawrence*, 3 U.S. 42 (1795); *Ex parte Crane*, 30 U.S. 190 (1831); *Ex parte Roberts*, 31 U.S. 216 (1832); *Ex parte Bradstreet*, 32 U.S. 634 (1833); *Life & Fire Ins. Co. v. Wilson*, 33 U.S. 291 (1834); *Life & Fire Ins. Co. v. Adams*, 34 U.S. 571 (1835); *Ex parte Hoyt*, 38 U.S. 279 (1839); *Ex parte William Many*, 55 U.S. 24 (1853); *Ex parte Cutting*, 94 U.S. 14 (1877) as support). Based on these principles, Williams' request that we issue an order compelling the Nominal Respondent to grant his motion to dismiss, asks for a remedy that is clearly unavailable via mandamus.

III. CONCLUSION

Williams has not demonstrated an indisputable right to an order requiring the Nominal

Respondent to dismiss the underlying criminal charges on speedy trial grounds.¹ Accordingly, we deny the petition for writ of mandamus.

Dated this 2nd day of February, 2016.

ATTEST:

¹ Because Williams only requests that this Court order the Nominal Respondent to grant his motion to dismiss on speedy trial grounds, we express no opinion as to whether the Nominal Respondent has breached any ministerial duty by failing to rule on the underlying motions in a timely manner. *Fleming*, 56 V.I. at 465-66.