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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

NO. 16-3532

CHARLES C. BREWINGTON, PETITIONER,

v.

ROBERT A. McDONALD,
SECRETARY OF VETERANS AFFAIRS, RESPONDENT.

Before LANCE, *Judge*.

ORDER

*Note: Pursuant to U.S. Vet. App. R. 30(a),
this action may not be cited as precedent.*

On October 4, 2016, the pro se petitioner filed a petition for extraordinary relief in the nature of a writ of mandamus. Liberally construing the petition, he asks the Court to release him from prison in Oklahoma into the custody of a VA hospital in New York to receive treatment for his sarcoidosis. Petition (Pet.) at 2-3; *see Calma v. Brown*, 9 Vet.App. 11, 15 (1996) (explaining that it is the Court's practice to liberally construe the pleadings of pro se litigants). The petitioner notes that a Board of Veterans' Appeals (Board) decision dated May 12, 2014, remanded his claim, but he does not identify the pending claim or ask for relief based upon that decision. *Id.* at 1.

This Court has the authority to issue extraordinary writs in aid of its jurisdiction pursuant to the All Writs Act, 28 U.S.C. § 1651(a). *See Cox v. West*, 149 F.3d 1360, 1363-64 (Fed. Cir. 1998). However, "[t]he remedy of mandamus is a drastic one, to be invoked only in extraordinary situations." *Kerr v. U.S. Dist. Court*, 426 U.S. 394, 402 (1976). Accordingly, three conditions must be met before the Court may issue a writ: (1) The petitioner must demonstrate a lack of adequate alternative means to obtain the desired relief, thus ensuring that the writ is not used as a substitute for the appeals process; (2) the petitioner must demonstrate a clear and indisputable right to the writ; and (3) the Court must be convinced, given the circumstances, that the issuance of the writ is warranted. *See Cheney v. U.S. Dist. Court*, 542 U.S. 367, 380-81 (2004).

The Court's jurisdiction is governed by 38 U.S.C. §§ 7252(a) and 7266(a) and is limited to review of final decisions of the Board. *See* 38 U.S.C. § 7252(a) (the Court "shall have exclusive jurisdiction to review decisions of the [Board]"); 38 U.S.C. § 7266(a) ("In order to obtain review by the Court of Appeals for Veterans Claims," a claimant must appeal "a final decision of the Board.");

see also Urban v. Principi, 18 Vet.App. 143, 146 (2004); *Hibbard v. West*, 13 Vet.App. 546, 548 (2000).

Here, the petitioner makes no arguments regarding a pending claim or any matter that will ultimately be subject to a decision by the Board. *See Bates v. Nicholson*, 398 F.3d 1355, 1359 (Fed. Cir. 2005) (noting that the Court's authority to issue writs necessary or appropriate in aid of its jurisdiction is limited to cases where granting the petition could lead to a final Board decision under a law affecting the provision of benefits). Although he asks for the Court's assistance with his criminal proceedings, the Court, while sympathetic, is unable to offer such relief, as these matters are outside of the Court's jurisdiction. The Court must, therefore, dismiss the petition for lack of jurisdiction.

Upon consideration of the foregoing, it is

ORDERED that the petition is DISMISSED.

DATED: November 30, 2016

BY THE COURT:



ALAN G. LANCE, SR.

Judge

Copies to:

Charles C. Brewington

VA General Counsel (027)