

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 19-8965

FREDDIE L. DAVIS,

PETITIONER,

v.

ROBERT L. WILKIE,
SECRETARY OF VETERANS AFFAIRS,

RESPONDENT.

Before PIETSCH, *Judge*.

ORDER

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

On December 20, 2019, the petitioner, Freddie L. Davis, then acting pro se, filed a petition for extraordinary relief in the form of a writ of mandamus. He asked the Court to take ten actions on his behalf. The Court ordered the Secretary to respond to his arguments.

Soon after the Court issued its order, the petitioner obtained counsel. He and the Secretary asked the Court to stay the case for 30 days so that he could decide whether to file an amended petition. The Court granted their motion. The parties later asked the Court to stay the case until April 21, 2020, to allow them to negotiate an alternative resolution. The Court again granted the motion.

On April 15, 2020, the parties filed a third joint motion to stay this case. They asked the Court to stay proceedings until June 22, 2020. They explained that they have "narrowed the subject" of the petition to "the appeal of special mode of transportation (SMT) benefits." They asserted that they "continue to work on this case to conserve the resources of this Court."

The Court is not convinced that an additional stay is warranted. The parties' latest motion reveals that the Veterans Health Administration has issued a decisional document concerning the petitioner's SMT request and that he is pursuing an appeal. That strongly suggests that the petitioner does not lack adequate alternative means to attain the relief that he seeks and that he does not have a clear and indisputable right to a writ. *See Cheney v. U.S. Dist. Court*, 542 U.S. 367, 380-81 (2004). The Court will not hold open a petition that has no chance of succeeding.

The Court, however, presently has before it little information about the petitioner's SMT request. It will give the petitioner an opportunity to demonstrate why his petition should not be denied. The petitioner should file an amended petition that complies with the Court's Rules of

Practice and Procedure and explains the basis for the relief that he seeks. Once the Court receives that filing, it will determine whether judicial interests indicate that an additional stay is warranted.

Accordingly, it is

ORDERED that the parties' April 15, 2020, motion is held in abeyance. It is further

ORDERED that this case is stayed pending further order of the Court. It is further

ORDERED that, within 15 days of the date of this order, the petitioner file an amended petition.

DATED: April 17, 2020

BY THE COURT:



CORAL WONG PIETSCH

Judge

Copies to:

Harry J. Binder, Esq.

VA General Counsel (027)