

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

U.S. COURT OF APPEALS

FILED

APR 29 2008

CHARLES R. FOLEY III
CLERK

No. 08-20213
USDC No. 4:07-CV-3809

IN RE: DOROTHY CATO, CHRISTOPHER CATO, DAVID-WYNN MILLER

Petitioners

Petition for a Writ of Mandamus
to the United States District Court
for the Southern District of Texas

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

MAY 07 2008

MICHAEL N. MILEY, CLERK OF COURT

Before KING, WIENER, and ELROD, Circuit Judges.

PER CURIAM:

Dorothy Cato, Christopher Cato, and David-Wynn Miller have filed in this court a pro se petition for a writ of mandamus. We are unable to discern from their incoherent pleadings just what relief they seek from this court. Because they reference the above-cited district court number, we assume that they have some complaint concerning that lawsuit.

In district court, the petitioners sued more than 30 defendants in a pleading labeled "Quo-Warranto-Complaint." The assertions in the "quo-warranto-complaint" were lengthy but incoherent, and several defendants filed pleadings indicating that they were unable to ascertain what claims were presented. On November 29, 2007, the district court dismissed the complaint for failure to state a claim. The petitioners have not appealed that judgment. They did continue to file further "quo-warranto-complaints" in the district court; that

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court denied two such pleadings and then ordered that any further papers filed by the petitioners were “automatic nullities when filed.”

Our mandamus jurisdiction is generally limited to situations in which the district court “has exceeded its jurisdiction or has declined to exercise it,” or in which the district court “has so clearly and indisputably abused its discretion as to compel prompt intervention by the appellate court.” *In re United States*, 397 F.3d 274, 282 (5th Cir. 2005). Mandamus is not a substitute for appeal. *Id.* at 283. Because the petitioners’ case is no longer pending in district court, we lack authority to issue a writ of mandamus pertaining to that case.

The petition for a writ of mandamus is DENIED.

A true copy
Attest:

Clerk, U. S. Court of Appeals, Fifth Circuit

By 
Deputy

New Orleans, Louisiana

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

April 30, 2008


Mr Michael N Milby, Clerk
Southern District of Texas, Houston
United States District Court
Room 1217
515 Rusk Street
Houston, TX 77002

No. 08-20213 In Re: Cato
USDC No. 4:07-CV-3809

Enclosed is a certified copy of the judgment issued as the
mandate.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By: 
James deMontluzin, Deputy Clerk
504-310-7679

cc: w/encl:
Mr Christopher Cato
Ms Dorothy Cato
Mr David-Wynn Miller

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