

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

United States Court of Appeals
Fifth Circuit

FILED

June 2, 2011

Lyle W. Cayce
Clerk

No. 10-40969
Summary Calendar

CHARLES ELLIS SHIRLEY,

Petitioner - Appellant

v.

CAPTAIN M. STARKEY,

Respondent - Appellee

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:10-CV-364

Before WIENER, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Proceeding *pro se* and *in forma pauperis*, Charles Ellis Shirley appeals the dismissal of his petition for writ of mandamus, in which he sought the district court to direct a Sheriff's Department to make available and execute certain legal materials and supplies. The district court dismissed the petition as frivolous, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), reasoning that federal courts lack the authority to issue a writ of mandamus to direct the performance of a state or county actor or agency.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Shirley does not brief any contention challenging the basis of the district court's decision. He has, therefore, waived that issue on appeal. *See, e.g., Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

AFFIRMED.