

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-2880  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WISTING RUIZ FIERRO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CR-H-91-211-3  
- - - - -

(January 25, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,  
Circuit Judges.

PER CURIAM:\*

Wisting Ruiz Fierro appeals the denial of his motion for a writ of mandamus. The writ of mandamus is an extraordinary remedy reserved for extraordinary circumstances. In re American Marine Holding Co., 14 F.3d 276, 277 (5th Cir. 1994). The party seeking mandamus must show that no other adequate means exist to attain the requested relief and that his right to the issuance of the writ is "clear and indisputable." In re Willy, 831 F.2d 545, 549 (5th Cir. 1987). The issuance of the writ of mandamus lies

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

within the discretion of the court to which it is directed.

United States v. Denson, 603 F.2d 1143, 1146 (5th Cir. 1979).

Fierro cannot demonstrate his right to this extraordinary remedy because he has other adequate remedies to obtain the requested relief. The appropriate means to challenge his conviction was through a direct criminal appeal. To the extent that he seeks to recover for the loss of the seized property he has a pending civil action, and to recover for any Eighth or Fourteenth Amendment violations that occurred before, during, or after his trial he can bring a Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388, 91 S. Ct. 1999, 29 L. Ed. 2d (1971) or 42 U.S.C. § 1983 action. Finally, to the extent that he seeks to be reimbursed for the cost of transcripts for his direct criminal appeal, he must file a motion for a transcript at government expense, see 28 U.S.C. § 753(f), and if that motion is granted, he may obtain reimbursement through the Criminal Justice Act. See 18 U.S.C. § 3006A. The district court did not abuse its discretion by denying Fierro's motion for a writ of mandamus.

AFFIRMED.