

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

In re: MICHAEL SAMMONS,
Petitioner

2017-102

On Petition for Writ of Mandamus to the United States Court of Federal Claims in No. 1:13-cv-00465-MMS, Judge Margaret M. Sweeney.

ON PETITION

Before PROST, *Chief Judge*, MOORE and CHEN, *Circuit Judges*.

PER CURIAM.

ORDER

Michael Sammons seeks a “writ of advisory mandamus . . . to prevent the [United States] Court of Federal Claims . . . from illegally presiding over constitutional takings cases.”

In July 2013, Fairholme Funds, Inc. *et al.*, holders of preferred stock issued by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, filed the underlying lawsuit seeking just compensation for the alleged taking of their property by the

government. In September 2016, Mr. Sammons moved to intervene “for the limited purpose of challenging [the Claims Court’s] jurisdiction.” The Claims Court denied the motion, and Mr. Sammons filed a timely appeal, 2017-1015, which is currently pending before the court.

Mr. Sammons also filed this petition for a writ of mandamus, alleging that, while this court has held that the Claims Court has “statutory authority” under the Tucker Act to hear constitutional takings cases, this court has never considered “the separate question of whether [the Claims Court] has ‘constitutional authority’ under Article III to hear such cases” and that such cases “*must* be decided by Article III judges, not by some branch of Congress or some legislative court or agency or any other entity Congress happens to create.”

A writ of mandamus is an extraordinary remedy and may not issue unless the petitioner established no adequate alternative means to attain the desired relief and a clear and undisputable right to relief. *See Cheney v. U.S. Dist. Court for the Dist. of Columbia*, 542 U.S. 367, 380–81 (2004); *see also Republic of Venezuela v. Philip Morris Inc.*, 287 F.3d 192, 198 (D.C. Cir. 2002) (“[N]o writ of mandamus—whether denominated ‘advisory,’ ‘supervisory,’ or otherwise—will issue unless the petitioner shows . . . that it has no other adequate means of redress . . . and . . . that the writ is necessary to emend a clear error or abuse of discretion.”). Because Mr. Sammons is not currently a party to the case below and can seek available relief in his appeal, 2017-1015, the requirements for obtaining mandamus relief are not met here.

Accordingly,

IT IS ORDERED THAT:

The petition for writ of mandamus is denied.

IN RE: SAMMONS

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FOR THE COURT

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court

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