

NOTE: This order is nonprecedential.

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

In re: DEREK J. MORRIS,
Petitioner

2018-158

On Petition for Writ of Mandamus to the Merit Systems Protection Board in Nos. SF-0752-13-1476-I-1 and SF-0752-13-1476-S-1.

ON PETITION

PER CURIAM.

ORDER

Derek J. Morris appears to seek mandamus relief concerning the Merit Systems Protection Board's initial May 2016 decision and October 2016 final decision sustaining his removal from the Navy's Security Training and Assessment Team and denying his affirmative defenses of discrimination based on, among other things, his race.

Petitioner has already attempted to petition for review of those Board decisions in this court. In May 2017, this court explained to Petitioner that it lacked jurisdiction over his case because he "presented discrimination claims before the Board and his filings before this

court indicate that he is unwilling to ‘waive’ or ‘abandon’ those claims. The court therefore transferred his case to a federal district court where all of his claims could be adjudicated.

For the reasons that we lacked jurisdiction over the prior petition, we lack jurisdiction over a request for mandamus. *See Baker Perkins, Inc. v. Werner & Pfleiderer Corp.*, 710 F.2d 1561, 1565 (Fed. Cir. 1983) (“The All Writs Act is not an independent basis of jurisdiction, and the petitioner must initially show that the action sought to be corrected by mandamus is within this court’s statutorily defined subject matter jurisdiction.”).*

Accordingly,

IT IS ORDERED THAT:

The petition is dismissed. Because Petitioner’s filing raised arguments concerning the merits of his case, the court will transmit it and all other filings to the federal district court to which his case previously was transferred, the United States District Court for the Southern District of California. Petitioner is reminded that any future filing concerning the subject of his appeal must be filed in federal district court.

* To the extent Petitioner asserts the right to further review by this court because the May 2017 order was signed by the clerk of court, the court notes that the clerk of court is authorized to sign a document “for the court” when directed by a judge or the court. *See Fed. Cir. R. 45(c)*. Here, the matter was decided by a panel of three judges, and the clerk signed the order for the court.

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FOR THE COURT

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court

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