

NOTE: This order is nonprecedential.

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

IN RE RASHID EL MALIK,
Petitioner.

2010-M937

On Petition for Writ of Mandamus to the United
States Court of Appeals for Veterans Claims.

PETITION FOR WRIT OF MANDAMUS

Before RADER, FRIEDMAN, and GAJARSA, *Circuit Judges*.
PER CURIAM.

ORDER

Rashid El Malik seeks a writ of mandamus to direct the United States Court of Appeals for Veterans Claims to compel the Board of Veteran's Appeals to increase his disability rating award.

El Malik has filed multiple writs of mandamus at the Court of Appeals for Veterans Claims seeking to compel Board action. Those petitions have all been denied, some on the ground that El Malik's frequent filings of mandamus petitions have increased the time necessary to develop and process his claims. He also has several

claims currently pending before the Board. Mandamus is not a substitute for proper appeal and must be denied when the remedy sought is available after entry of a final Board decision, appeal to the Court of Appeals for Veterans Claims, or appeal to this court. *See Bankers Life & Cas. Co. v. Holland*, 346 U.S. 379, 383 (1953) (“[I]t is established that the extraordinary writs cannot be used as substitutes for appeals . . . even though hardship may result from delay and perhaps unnecessary trial”). El Malik could have appealed from the Court of Appeals for Veterans Claims decision denying his most recent petition at that court but instead filed this petition in this court. Because El Malik has not shown that the relief he seeks is unavailable to him through the traditional appeals process, we deny his petition.

Accordingly,

IT IS ORDERED THAT:

The petition for a writ of mandamus is denied.

FOR THE COURT

MAY 19 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Rashid El Malik
David D'Alessandris, Esq.
Clerk, United States Court of Appeals for Veterans
Claims

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

MAY 19 2010

JAN HORBALY
CLERK