

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JAN 17 2012

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

MARCEL LIONEL SEJOUR,)
)
Petitioner,)
)
v.)
)
FEDERAL BUREAU OF PRISONS,)
)
Respondent.)

Civil Action No. **12 0064**

MEMORANDUM OPINION

This matter comes before the Court on review of petitioner's application to proceed *in forma pauperis* and his *pro se* petition for a writ of mandamus. The Court will grant the application and deny the petition.

Petitioner seeks an order compelling the Federal Bureau of Prisons to issue a decision on the appeal of his inmate grievance to the BOP's Central Office. He explains that the Central Office "asked for an extension of time up to September 11, 2011, to respond to the administrative appeal," and that the BOP neither has answered nor requested additional time to do so. Pet. at 2.

Mandamus relief is proper only if "(1) the plaintiff has a clear right to relief; (2) the defendant has a clear duty to act; and (3) there is no other adequate remedy available to plaintiff." *Council of and for the Blind of Delaware County Valley v. Regan*, 709 F.2d 1521, 1533 (D.C. Cir. 1983) (en banc). The party seeking mandamus has the "burden of showing that [his] right to issuance of the writ is 'clear and indisputable.'" *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 289 (1988) (citing *Bankers Life & Cas. Co. v. Holland*, 346 U.S. 379, 384

(1953)).

“If the inmate does not receive a response within the time allotted for reply, including extension, the inmate may consider the absence of a response to be a denial at that level.” 28 C.F.R. § 542.18. Petitioner may treat the Central Office’s lack of a timely response as a denial of his appeal.

The Court concludes that petitioner has not demonstrated his entitlement to mandamus relief, and his petition will be denied. An Order consistent with this Memorandum Opinion will be issued separately on this same date.


United States District Judge

Date:

Jan. 11, 2012