

FILED

AUG 28 2014

**Clerk, U.S. District and
Bankruptcy Courts**

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

KENNEDY SHULER,)
)
Petitioner,)
)
v.)
)
UNITED STATES ATTORNEY)
GENERAL, *et al.*,)
)
Respondents.)

Civil Action No. **14-1466**

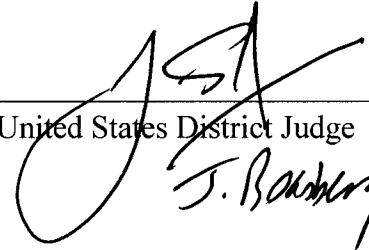
MEMORANDUM OPINION

This matter is before the Court on consideration of the petitioner's application to proceed *in forma pauperis* and his *pro se* petition for a writ of mandamus. The application will be granted, and the petition will be dismissed.

According to the petitioner, the respondents have violated rights protected under the Fifth, Eighth and Fourteenth Amendments to the United States Constitution, have detained him after he had served his federal sentence, and have refused to turn over the proceeds of a settlement. *See* Petition for Writ of Mandamus at 1. 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, Inc. 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)). This petitioner addresses none of these elements, and thus fails to meet his burden.

For these reasons, the petition and this civil action will be dismissed. An Order is issued separately.

DATE: 8-20-14


United States District Judge
J. Bauberg