

FILED: May 5, 2017

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1527
(1:12-cr-00003-LO)

In re: KYLE GOODWIN

Petitioner

O R D E R

Kyle Goodwin has filed a petition for writ of mandamus seeking to compel a ruling by the district court on his motion for return of digital files.

Mr. Goodwin lost access to his files when the government seized the property of the cloud services company holding the files, pursuant to criminal proceedings that remain pending against the company. Mr. Goodwin filed a motion for return of property in 2012, and the district court held a hearing and ordered briefing on the motion but did not schedule an evidentiary hearing. In 2015, in response to a motion for protective order filed by another third party adversely affected by the seizure, Mr. Goodwin reiterated his request that the court fashion a process by which users could retrieve their data. The district judge directed the parties to address a number of questions in connection with the motion for

protective order, and in June 2016 the magistrate judge held a meet and confer with regard to the motion and various related civil actions. In October 2016, Mr. Goodwin moved for a ruling on his motion for return of property. When the district court did not rule on the motion, he filed the instant mandamus petition.

A petition for writ of mandamus may be used “where a district court persistently and without reason refuses to adjudicate a case properly before it.” *Will v. Calvert Fire Ins. Co.* 437 U.S. 655, 661-62 (1978). Although, as Mr. Goodwin points out, his motion for return of property has been pending for a significant period of time without decision, we do not find on this record that the district court has refused to adjudicate the matter.

Accordingly, the petition for writ of mandamus is denied without prejudice.

Entered at the direction of Judge King with the concurrence of Judge Niemeyer and Judge Keenan.

For the Court

/s/ Patricia S. Connor, Clerk