

## **Research Assessment 8: Mandamus Action**

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### **Sources:**

1. "Goel & Anderson, LLC." Mandamus Actions | Immigration Litigation | Goel & Anderson. N.p., 24 Jan. 2017. Web. 24 Jan. 2017.
2. "mandamus." West's Encyclopedia of American Law, edition 2. 2008. The Gale Group 24 Jan. 2017 <http://legal-dictionary.thefreedictionary.com/mandamus>
3. "Kerr v. United States Dist. Court for Northern Dist. of Cal." Oyez, <https://www.oyez.org/cases/1975/74-1023>. Accessed 24 Jan. 2017.

### **Analysis:**

A large part of mentor experiences has to do with researching and learning about unfamiliar terms that are mentioned during the visit. Recently, at an attorney training session on the MHMC program, I heard the term "mandamus" for the first time. Naturally, I was curious about this legal term attorney guest speaker Keith Hampton mentioned. As a result, I decided to elaborate and explore mandamus power.

A mandamus action lawsuit is a lawsuit that compels individuals, such as police officers and government employees, "to act on an administrative matter that is not discretionary" (Goel & Anderson, 2017). Essentially, it is used to urge individuals to complete a legal duty they have but have not performed. To utilize mandamus action, a writ is issued from a court that commands individuals, groups, or corporations. According to West's Encyclopedia of American Law, "a writ or order of

mandamus is an extraordinary court order because it is made without the benefit of full judicial process, or before a case has concluded. It may be issued by a court at any time that it is appropriate, but it is usually issued in a case that has already begun" (West's Encyclopedia of American Law, 2008). If the person or group the writ is directed at refuses to comply, they can be held in contempt of court. Failing to comply with a mandamus order can lead to fines and incarceration.

Mandamus action originated from English courts in the early seventeenth century and became common practice in America due to colonization. However, no set guidelines were established until the 1976 Supreme Court case *Kerr v. United States District Court*. *Kerr v. United States District Court* brought up the question on whether or not "a writ of mandamus be issued when prisoners suing the district court wish to have the petition for discovery vacated?" (Oyez, 2017). The court ruled no and denied the writ of mandamus the defendants filed. The Supreme Court also ruled that a "writ of mandamus should only be issued in extraordinary circumstances when there are no other adequate means to secure relief" (Oyez, 2017). *Kerr v. United States District Court* had a lot to do with prison communications and confidentiality. Interestingly enough, the concern of prison communications, prison confidentiality, and the discovery process is still present today among defense attorneys. To elaborate, this

concern was voiced by the defense attorneys of the Collin County Mental Health Managed Counsel program at the training session I attended.

In the context of the training session I had the opportunity to observe, mandamus action was mentioned by guest speaker Keith S. Hampton as a method to compel police departments to finish their administrative work and submit the charge into the system. For example, one of the attorneys had a mental health client being held in the jail that had been arrested and charged. The issue was that the charge would not be entered into the online database until weeks later. As a result, the attorney could not proceed with the legal work and process until the charge came through the database. A mandamus order could compel police departments to get through their paperwork in a timely manner in order to uphold the right to due process and the fifth amendment.

Learning about mandamus action was not only interesting but also beneficial. Now, if the term is ever mentioned during a mentor visit, I will be able to follow the conversation better. There are numerous law terms that I have yet to learn that will undoubtedly come up through the year.