

Note: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

In re: CHRISTOPHER B. JULIAN, RENEE G.
JULIAN,
Petitioners

2016-122

On Petition for Writ of Mandamus to the United States Court of Federal Claims in No. 1:15-cv-01344-EJD, Senior Judge Edward J. Damich.

ON PETITION

PER CURIAM.

ORDER

Christopher B. Julian and Renee G. Julian (collectively, “the Julians”) submit a petition for a writ of mandamus. This court considers whether the petition should be construed as a notice of appeal.

The Julians filed suit against the United States Department of Agriculture, the United States District Court for the Western District of Virginia, and the United States Court of Appeals for the Fourth Circuit alleging, *inter alia*, their due process rights were violated by the district court and the court of appeals. On March 10, 2016, the United States Court of Federal Claims dismissed the

complaint for lack of jurisdiction and for failure to state a claim. The Court of Federal Claims also denied the Julians' motion to recuse the trial judge. We received this petition within the time to appeal from the Court of Federal Claims' judgment.

Although the Julians' petition is drafted as a request for relief in the form of a writ of mandamus, the court has broad discretion to consider whether such filing constitutes a notice of appeal. *Cf. Smith v. Barry*, 502 U.S. 244, 248 (1992) (holding that courts should look at the notice afforded by a document rather than a litigant's motivation in filing to determine whether a document constitutes a notice of appeal).

In order to appeal a judgment of the Court of Federal Claims, the party seeking appeal must file notice that sets forth (a) the name of each party to the proceeding, (b) the judgment, order, or part thereof being appealed, and (c) the name of the court to which the appeal is taken. Fed. R. App. P. 3(c). The Julians' petition clearly meets these requirements. In addition, the petition is timely if treated as a notice of appeal. *See* Fed. R. App. P. 4(a)(1)(B).

Accordingly,

IT IS ORDERED THAT:

The petition for a writ of mandamus is to be treated as a notice of appeal. The clerk is directed to docket the case as an appeal.

FOR THE COURT

/s/ Daniel E. O'Toole
Daniel E. O'Toole
Clerk of Court