

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

Christopher Main, :
Plaintiff, :
 :
v. : File No. 1:09-CV-108
 :
Estate of Gerard Altieri, :
Bennington Superior Court, :
and Vermont Supreme Court, :
Defendants. :

OPINION AND ORDER
(Paper 1)

Plaintiff Christopher Main, a federal inmate proceeding *pro se*, has filed a petition for writ of mandamus. The petition asks this Court to compel the Vermont Supreme Court to reach the merits of an appeal in a civil case. Main claims that the Vermont Supreme Court dismissed the appeal on procedural grounds, and that the dismissal violated his constitutional rights.

Pending before the Court is Main's motion for leave to proceed *in forma pauperis*. Before a court grants an application to proceed *in forma pauperis*, 28 U.S.C. § 1915 mandates that it conduct an initial screening to ensure that the complaint has a legal basis. See 28 U.S.C. § 1915(e)(2). A court must dismiss the complaint *sua sponte* if it determines that the allegations of poverty are untrue or if the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

Because Main's request for a writ of mandamus is misplaced, this case must be dismissed at the outset. The Court has no jurisdiction to compel action by state officials via a writ of mandamus. Davis v. Lansing, 851 F.2d 72, 74 (2d Cir. 1988); White v. Ward, 145 F.3d 1139, 1139 (10th Cir. 1998); Gurley v. Superior Court of Mecklenburg County, 411 F.2d 586, 587 (4th Cir. 1969). Moreover, federal district courts cannot review state court orders, even when the plaintiff claims that those orders were unconstitutional. See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482-88 (1983). This case is therefore DISMISSED, with no leave to amend. See Cuoco v. Moritsugu, 222 F.3d 99, 112 (2d Cir. 2000) (denying request to amend as futile). Main's motion to proceed *in forma pauperis* (Paper 1) is DENIED as moot.

Dated at Brattleboro, in the District of Vermont, this 22nd day of April, 2009.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge