

February 26, 2009

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

FOR THE TENTH CIRCUIT

In re:

SOLOMON BEN-TOV COHEN,

Petitioner.

No. 09-1045

(D.C. No. 1:08-CV-01844-LTB-CBS)

(D. Colo.)

ORDER

Before **KELLY, MURPHY, and McCONNELL**, Circuit Judges.

Petitioner asks this court to issue a writ of mandamus compelling the United States District Court for the District of Colorado to decide his habeas petition. The habeas petition was filed September 3, 2008, and has been at issue since January 22, 2009.

Mandamus is a remedy available only when there is a clear and indisputable right to the relief requested. Johnson v. Rogers, 917 F.2d 1283, 1285 (10th Cir. 1990) (granting mandamus relief where fourteen-month delay occurred for no reason other than district court docket congestion). The underlying habeas proceedings in the district court have continued at a steady pace since the petition

was filed—there is no showing here of inordinate delay. Consequently, the petition for writ of mandamus is DENIED. Petitioner’s motion for leave to proceed on appeal without prepayment of costs or fees is granted.

Entered for the Court,

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", with a long horizontal flourish extending to the right.

ELISABETH A. SHUMAKER, Clerk