

UNITED STATES COURT OF APPEALS June 15, 2011

FOR THE TENTH CIRCUIT Elisabeth A. Shumaker
Clerk of Court

In re: ROBERT E. GREEN,

Petitioner.

No. 11-3143
(D.C. No. 5:10-CV-03062-KHV-JPO)
(D. Kan.)

ORDER

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

This is an original proceeding in the nature of mandamus. Pro se petitioner Robert E. Green seeks an order directing the United States District Court for the District of Kansas to vacate orders entered after this court issued its order and judgment in *Green v. Corrections Corp. of America*, 401 F. App'x. 371 (10th Cir. 2010). Alternatively, he asks this court to enter judgment in his favor in the underlying case, in the amount of \$450,000.

“Mandamus is not the same as, nor is it a substitute for, a direct appeal. Rather, it is a drastic remedy, which is to be invoked only in extraordinary circumstances.” *In re Motor Fuel Temperature Sales Practices Litigation*, ___ F.3d ___, 2011 WL 1998367, *11 (10th Cir. May 24, 2011) (quotations and alteration omitted). “[A] party seeking a writ of mandamus must have no other

adequate means to attain the relief he desires, and must demonstrate that his right to the writ is clear and indisputable. “In addition,” the court “must be satisfied that the writ is appropriate under the circumstances.” *Id.* (quotations omitted).

Mr. Green’s mandamus petition is frivolous and does not meet the applicable standard. None of his contentions demonstrate a clear and undisputable right to relief. This court did not resolve the merits of the underlying case in his favor; it simply remanded the matter for the district court’s further consideration of its jurisdiction over Mr. Green’s state law claims. *Green*, 401 F. App’x. at 377. The petition is DENIED, as is Mr. Green’s motion to proceed without prepayment of fees and costs.

Entered for the Court,

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker". The signature is written in black ink and is positioned below the text "Entered for the Court,".

ELISABETH A. SHUMAKER, Clerk