

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 17, 2012

Elisabeth A. Shumaker
Clerk of Court

In re:

GORDON TODD SKINNER,

Petitioner.

No. 12-5131
(D.C. No. 4:11-CV-00382-CVE-TLW)
(N.D. Okla.)

ORDER

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

Gordon Todd Skinner, an Oklahoma state prisoner appearing pro se, seeks a writ of mandamus directing the United States District Court for the Northern District of Oklahoma to rule on his pending application for a writ of habeas corpus within sixty days. For the reasons that follow, we deny the petition.

“[A] writ of mandamus is a drastic remedy, and is to be invoked only in extraordinary circumstances.” *In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1186 (10th Cir. 2009) (internal quotation marks omitted). “[W]e will grant a writ only when the district court has acted wholly without jurisdiction or so clearly abused its discretion as to constitute usurpation of power.” *Id.* (internal quotation marks omitted). “Three conditions must be met before a writ of mandamus may issue”: (1) that the party “have no other adequate means to attain the relief he desires”; (2) that the party’s “right to the writ is clear and indisputable”; and (3) that the court

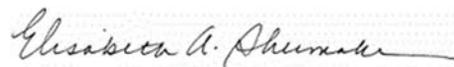
“be satisfied that the writ is appropriate under the circumstances.” *Id.* at 1187 (internal quotation marks omitted).

Mandamus may be proper in habeas cases when there is inordinate and unreasonable delay. *See Johnson v. Rogers*, 917 F.2d 1283, 1284-85 (10th Cir. 1990) (granting mandamus where docket congestion was sole reason for fourteen-month delay in adjudicating habeas petition); *see also State Farm Mut. Auto. Ins. Co. v. Scholes*, 601 F.2d 1151, 1154 (10th Cir. 1979) (explaining that writ of mandamus may issue “[w]here a district court persistently and without reason refuses to adjudicate a case properly before it” (internal quotation marks omitted)). But there has been no such delay here. Mr. Skinner’s habeas petition was filed on June 17, 2011. The respondent filed a response on July 20. On August 18, Mr. Skinner filed a motion for an extension of time to file a reply until September 19, 2011. The district court granted that motion on August 18. Mr. Skinner filed his reply on September 19. On October 11, 2011, Mr. Skinner filed an amended reply in support of his habeas application and a supplement to the amended reply. On January 13, 2012, Mr. Skinner filed a motion to supplement the record, which was granted on January 18. On January 19, Mr. Skinner filed a motion for summary judgment, and on January 30, he filed eight motions for production of documents. The district court denied the summary judgment motion and the eight motions for production on February 13.

Given this chronology, we see no undue delay by the district court.

Accordingly, we DENY Mr. Skinner's petition for a writ of mandamus.

Entered for the Court

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", written in black ink on a light-colored background.

ELISABETH A. SHUMAKER, Clerk