

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

October 17, 2013

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker  
Clerk of Court

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In re: TEWODROS G. JEMANEH,

Petitioner.

No. 13-1419  
(D.C. No. 1:12-CV-02383-RM-MJW)  
(D. Colo.)

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**ORDER**

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Before **BRISCOE**, Chief Judge, **HARTZ** and **MATHESON**, Circuit Judges.

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Tewodros G. Jemaneh, proceeding pro se, has filed a petition for a writ of mandamus. Mr. Jemaneh is the plaintiff in a civil rights action against the University of Wyoming and a number of individual defendants arising out of his termination from the School of Pharmacy doctoral program. In his mandamus petition, he seeks an order: (1) directing Magistrate Judge Watanabe to recuse from his case; (2) vacating several discovery and procedural orders; and (3) requiring the district court to rule on his seven pending motions.

“[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.”

*In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1186 (10th Cir. 2009) (internal quotation marks omitted). To be entitled to the extraordinary remedy of a writ of mandamus, Mr. Jemaneh “must have no other adequate means to attain the relief he desires”; his right to the writ must be “clear and indisputable”; and we must be

satisfied that the writ is an appropriate exercise of our discretion under the circumstances. *Id.* at 1187 (internal quotation marks omitted).

Mr. Jemaneh is not entitled to mandamus relief on his request to have Magistrate Judge Watanabe recused from his case. He contends that Judge Watanabe is biased against him and points to adverse rulings entered against him to support his allegation. But “[a]dverse rulings alone are insufficient grounds for disqualification,” *Lopez v. Behles (In re American Ready Mix, Inc.)*, 14 F.3d 1497, 1501 (10th Cir. 1994), and there is nothing in Mr. Jemaneh’s recusal motion or mandamus petition that would cause “a reasonable person armed with the relevant facts [to] harbor doubts about the judge’s impartiality,” *Maez v. Mountain States Tel. and Tel. Inc.*, 54 F.3d 1488, 1508 (10th Cir. 1995).

Mr. Jemaneh also seeks mandamus relief from the district court’s orders granting defendants an extension of the deadline for filing dispositive motions, granting defendants’ motion to exceed the page limits for their motion to dismiss, and sanctioning him for discovery abuse. In making these decisions, the district court was exercising its discretion. *See Callahan v. Poppell*, 471 F.3d 1155, 1161 (10th Cir. 2006) (reviewing for abuse of discretion decision to extend deadline for response to complaint); *Timmerman v. U.S. Bank, N.A.*, 483 F.3d 1106, 1111-12 (10th Cir. 2007) (reviewing for abuse of discretion decision regarding page limits); *Lee v. Max Int’l, LLC*, 638 F.3d 1318, 1320-21 (10th Cir. 2011) (reviewing for abuse of discretion decision to sanction party for discovery violations). Mr. Jemaneh has

failed to demonstrate that the district court's decisions on these matters amounted to a usurpation of judicial authority. In addition, he has failed to show that he could not raise these matters on appeal.

Finally, Mr. Jemaneh is not entitled to a writ of mandamus directing the district court to rule on his pending motions. Mandamus would only be appropriate "where a district court persistently and without reason refuses to adjudicate a case properly before it." *Will v. Calvert Fire Ins. Co.*, 437 U.S. 655, 661-62 (1978) (internal quotation marks omitted). Mr. Jemaneh's case is proceeding in a timely manner in the district court.

The petition for a writ of mandamus is denied.

Entered for the Court



ELISABETH A. SHUMAKER, Clerk