

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

January 12, 2016

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

In re: MIKEL RAY HENDERSON,

Petitioner.

No. 15-7078
(D.C. No. 6:15-CV-00080-FHS-KEW)
(E.D. Okla.)

ORDER

Before **LUCERO, HOLMES** and **McHUGH**, Circuit Judges.

Mikel Ray Henderson, a state prisoner proceeding pro se, seeks a writ of mandamus ordering the district court to rule on his pending 28 U.S.C. § 2254 habeas application. Mr. Henderson filed his habeas application in late February 2015. In mid-April, the state moved to dismiss the application as second or successive. Mr. Henderson filed a reply in early June. On December 30, the court directed the state to file a reply to address the issue of whether the application was timely mailed. The state filed its reply on January 11, 2016.

Mandamus relief may be appropriate in certain circumstances if a district court delays in acting on a habeas application. *See Johnson v. Rogers*, 917 F.2d 1283, 1285 (10th Cir. 1990). However, there has been no inordinate delay, and the petition

is denied. We grant Mr. Henderson's application to proceed *in forma pauperis*.

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