

UNITED STATES COURT OF APPEALS February 6, 2012

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

In re: ALFREDO BURGOIN COTA,

Petitioner.

No. 12-3019
(D.C. No. 5:11-CR-40057-RDR-4)
(D. Kan.)

ORDER

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

Alfredo Burgoin Cota has filed a petition for a writ of prohibition seeking to stop the district court from proceeding with his criminal prosecution for drug trafficking crimes. He asserts that he is entitled to the writ because the district court has failed to provide proof of jurisdiction over him.

“A writ of prohibition is a drastic and extraordinary remedy.” *Univ. of Tex. at Austin v. Vratil*, 96 F.3d 1337, 1339 (10th Cir. 1996) (alteration and quotations omitted). The standards for a writ of prohibition are the same as for mandamus. *See id.* The writ should not be granted when any alleged error may be corrected on appeal. *Cf. Weston v. Mann (In re Weston)*, 18 F.3d 860, 864 (10th Cir. 1994) (“The extraordinary relief of a writ of mandamus is not a substitute for an appeal[.]”); *see also Vratil*, 96 F.3d at 1339 (when determining

whether to grant a writ of prohibition, court considers whether “the petitioning party will be damaged or prejudiced in a way not correctable on appeal”).

Petitioner may bring his jurisdictional challenge on appeal. Accordingly, we DENY his petition for a writ of prohibition. We also DENY his motion to proceed in forma pauperis.

Entered for the Court,

A handwritten signature in black ink, appearing to read "Elisabeth A. Shumaker", with a long, sweeping horizontal line extending to the right.

ELISABETH A. SHUMAKER, Clerk