

March 12, 2012

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

FOR THE TENTH CIRCUIT

In re:

DAN HENRY TIJERINA, SR.,

Petitioner.No. 12-4009
(D.C. No. 2:10-CV-00529-TS)
(D. Utah)

ORDER

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

Dan Henry Tijerina, Sr., a state prisoner proceeding pro se, filed a “Writ of Mandamus for Request of Injunctive Relief” in the district court, in which he sought a ruling from the district court on his previously filed motion for injunctive relief requiring prison officials to provide him with enough paper to prosecute his suit under 42 U.S.C. § 1983. The district court transferred the pleading to this court.

In the meantime, the district court entered an order dismissing Mr. Tijerina’s § 1983 complaint for failure to state a claim upon which relief could be granted. Mr. Tijerina has appealed from the district court’s order dismissing his case (appeal no. 12-4033). Mr. Tijerina’s docketing statement in that appeal states his intention to raise the issue concerning the writing paper.

Because it appears that Mr. Tijerina is seeking review of an issue that is subject to review on appeal, mandamus relief is inappropriate. *See In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1186 (10th Cir. 2009) (“[M]andamus is not a substitute for an appeal.”).

The motion to proceed in forma pauperis is GRANTED. The petition for a writ of mandamus is DENIED.

Entered for the Court,

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a horizontal flourish.

ELISABETH A. SHUMAKER, Clerk