

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 21, 2022

Christopher M. Wolpert
Clerk of Court

In re: XINGFEI LUO,

Petitioner.

No. 22-1302
(D.C. No. 1:20-CV-02765-RMR-MEH)
(D. Colo.)

ORDER

Before **HOLMES**, Chief Judge, **KELLY** and **ROSSMAN**, Circuit Judges.

Petitioner Xingfei Luo filed a petition for a writ of mandamus asking us to direct the district court to vacate its order denying her motion to quash a subpoena and to enter a new order granting the motion to quash. On October 19, 2022, while her mandamus petition was pending before this court, the district court entered a final judgment dismissing her action with prejudice. We therefore deny Ms. Luo’s mandamus petition because she now has another adequate remedy for the relief she seeks: appeal.

“Mandamus is not a substitute for appeal after a final judgment and is a drastic remedy that is invoked only in extraordinary circumstances.” *United States v. Copar Pumice Co.*, 714 F.3d 1197, 1210 (10th Cir. 2013) (internal quotation marks omitted). To be entitled to mandamus relief, “the party seeking issuance of the writ must have no other adequate means to attain the relief [s]he desires.” *In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1187 (10th Cir. 2009) (internal quotation marks omitted). Because there is now a final judgment, Ms. Luo can appeal the district court’s discovery ruling denying the motion to quash as part of an appeal from that

judgment. *See Copar Pumice Co.*, 714 F.3d at 1210 (“Post-judgment appeal . . . can remedy any error the district court may have made in its discovery rulings.”).

Accordingly, we deny Ms. Luo’s mandamus petition. We grant her motion to proceed without prepayment of costs or fees. We deny as moot Defendant Paul Wang’s “Motion to Stay or Otherwise Hold in Abeyance.”

Entered for the Court
Per Curiam