

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 3, 2023

Christopher M. Wolpert
Clerk of Court

In re: BLAKE HANKINS STOVER,

Petitioner.

No. 23-6100
(D.C. No. 5:00-CR-00155-G-1)
(W.D. Okla.)

ORDER

Before **MATHESON**, **MORITZ**, and **ROSSMAN**, Circuit Judges.

Blake Hankins Stover filed a petition for a writ of mandamus seeking an order compelling the district court to hear and decide his June 25, 2020, motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(1)(A) and § 404 of the First Step Act of 2018 (FSA), Pub. L. No. 115-391, 132 Stat. 5194, 5221-22 (2018).

Since filing his motion, Mr. Stover has supplemented it several times to address changes in the applicable law. Then, in April 2023, the Sentencing Commission proposed amendments to the United States Sentencing Guidelines Manual that would address changes in the law made by the FSA.

Against this backdrop, less than a month after Mr. Stover filed his mandamus petition, the district court set the motion for a hearing on November 6, 2023. Under these circumstances, the drastic remedy of a writ of mandamus is unwarranted despite the fact that the motion has been pending for three years with no action by the district court. *See In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1186 (10th Cir. 2009) (explaining that

“a writ of mandamus is a drastic remedy, and is to be invoked only in extraordinary circumstances” and “is used only to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so” (internal quotation marks omitted)); *cf. Johnson v. Rogers*, 917 F.2d 1283, 1285 (10th Cir. 1990) (holding petitioner had “established a clear and indisputable right to have his [habeas] petition expeditiously heard and decided” where it had been at issue for more than fourteen months without resolution).

Accordingly, we deny the petition.

Entered for the Court

A handwritten signature in black ink, appearing to read 'Christopher M. Wolpert', with a long horizontal stroke extending to the right.

CHRISTOPHER M. WOLPERT, Clerk