

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

March 19, 2024

Christopher M. Wolpert  
Clerk of Court

In re: DEXTER LEEMON JOHNSON,

Petitioner.

No. 24-5028  
(D.C. No. 4:24-CV-00097-GKF-MTS)  
(N.D. Okla.)

ORDER

Before **MORITZ**, **CARSON**, and **FEDERICO**, Circuit Judges.

Dexter Leemon Johnson, an Oklahoma state prisoner proceeding pro se, petitions this court for a writ of prohibition. He asks this court to issue an order:

- Prohibiting the district court from refusing to file his Federal Rule of Civil Procedure 60(b) motion, which was mailed at the same time as his writ of prohibition;
- Prohibiting the district court from applying procedural bar or statute of limitations to his void judgment claim; and
- Prohibiting the district court from disposing of his Rule 60(b) motion without performing its duty to adjudicate the merits of his challenge to the legal existence of Oklahoma.

Pet. at 15-16.

The district court has filed Mr. Johnson's Rule 60(b) motion, so that request in his petition is now moot. As for the remainder of his petition, "a writ of prohibition is a drastic and extraordinary remedy," and Mr. Johnson has not "shown his right to the writ to be clear and undisputable." *Univ. of Tex. at Austin v. Vratil*, 96 F.3d 1337, 1339

(10th Cir. 1996) (brackets and internal quotation marks omitted). In particular, he has not shown he has “no other adequate means to secure the relief [he] desire[s],” *id.*, because the district court has yet to rule on his Rule 60(b) motion. And if Mr. Johnson does not like the result once that court does rule on his Rule 60(b) motion, he can file an appeal. A writ of prohibition is therefore not appropriate. *See Sangre de Cristo Cmty. Mental Health Serv., Inc. v. United States (In re Vargas)*, 723 F.2d 1461, 1468 (10th Cir. 1983) (“Writs of prohibition . . . are not to be used as a substitute for appeal.”).

Accordingly, we deny Mr. Johnson’s petition for a writ of prohibition. We also deny his motion for leave to proceed in this matter without prepayment of costs or fees.

Entered for the Court

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

CHRISTOPHER M. WOLPERT, Clerk