

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

May 21, 2025

Christopher M. Wolpert
Clerk of Court

In re: DAVID D. CROSSETT,

Petitioner.

No. 25-4053
(D.C. Nos. 1:24-CV-00205-TC,
1:24-CV-00125-DBB-DAO &
1:24-CV-00140-DBB-JCB)
(D. Utah)

ORDER

Before **BACHARACH, McHUGH**, and **MORITZ**, Circuit Judges.

This mandamus proceeding stems from three lawsuits David Crossett filed in the United States District Court for the District of Utah. The district court has entered final judgment in one case, and the other two remain pending. Mr. Crossett petitions for a writ of mandamus. Liberally construed, his petition seeks mandamus relief in all three cases.¹

A writ of mandamus is a drastic remedy, available only in extraordinary circumstances. *In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1186 (10th Cir. 2009).

We will issue the writ only if three conditions exist:

1. The petitioner has no other way to obtain the desired relief.
2. The petitioner has shown a clear and indisputable right to the writ.
3. We have determined, using our discretion, that the writ is appropriate under the circumstances.

¹ Mr. Crossett represents himself, so we construe his filings liberally. *See Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

See id. at 1187.

Mr. Crossett devotes most of his petition to the case in which the district court has already entered final judgment (and denied postjudgment relief). In that case, he sued the Church of Jesus Christ of Latter-Day Saints (the Church). The district court dismissed the case. Mr. Crossett tells us that both the magistrate judge and the district judge who presided over the case have connections to the Church. He asks us to vacate the dismissal and to require the recusal of any judicial officer affiliated with the Church.

We must deny his request because he has another way to obtain the relief he seeks—an appeal of the district court’s judgment. Although mandamus is often an appropriate path to challenge a recusal decision, that is not the case here. A recusal order is interlocutory and so not immediately appealable. *Nichols v. Alley*, 71 F.3d 347, 350 (10th Cir. 1995). For that reason, we have held “that mandamus is an appropriate vehicle by which to challenge a district court’s denial of a recusal motion.” *Id.* But once a district court enters final judgment, a party can challenge a recusal order through an appeal of the judgment. *See Montgomery v. City of Ardmore*, 365 F.3d 926, 934 (10th Cir. 2004); *United States v. Cooley*, 1 F.3d 985, 996 n.9 (10th Cir. 1993).

Mr. Crossett must raise any challenges to the judgment in his lawsuit against the Church in an appeal. *See In re Cooper Tire*, 568 F.3d at 1187 (recognizing that mandamus “is not a substitute for an appeal”). Disputing that point, Mr. Crossett says that an “appeal is inadequate where the entire process has been fundamentally tainted by religious loyalty and systemic misconduct.” Pet. at 5. But he cites no authority

supporting that statement, and we see no reason why an appeal would be inadequate to address his claims of judicial bias or any other challenge he wishes to raise against the judgment.

That leaves Mr. Crossett's two lawsuits still pending in district court.² We understand him to seek a writ directing the district court to rule on pending motions in those cases.³ Mr. Crossett provides little information about the motions, and we remain uncertain about exactly which motions he wants the district court to resolve.⁴ For example, he complains that the district court has not yet ruled on motions for an accommodation under the Rehabilitation Act. Yet in each case, the district court has already denied at least one motion for an accommodation. We see that the district court has taken no action in the cases since October and November 2024, respectively, but our review of the dockets gives us no concern that the court has neglected the cases to a degree warranting our intervention. *Cf. Johnson v. Rogers*, 917 F.2d 1283, 1285

² Mr. Crossett actually has three pending cases in district court. But he filed the third one after he filed his mandamus petition, and his mandamus petition does not mention it.

³ To the extent Mr. Crossett seeks to disqualify the judge overseeing these cases, we deny that request because he has failed to show a clear and indisputable right to relief.

⁴ It is possible that Mr. Crossett seeks rulings on motions in his case against the Church. He might think the district court never ruled on several motions in the case because the court never explicitly did so. But the court explicitly adopted the magistrate judge's recommendation after noting that it recommended denying as moot the motions that remained pending. And the district court's docket says that it denied the remaining motions as moot. These circumstances make clear that, after granting the Church's motion to dismiss, the court denied all remaining motions as moot. And so no motions remain pending in the case against the Church.

(10th Cir. 1990) (granting mandamus relief when nothing “other than docket congestion” caused a fourteen-month delay in a habeas case).

* * *

We deny Mr. Crossett’s petition for a writ of mandamus. We grant his motion to proceed without prepaying costs or fees.

Entered for the Court

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

CHRISTOPHER M. WOLPERT, Clerk