

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 24, 2025

Christopher M. Wolpert
Clerk of Court

In re: CLAUD R. KOERBER,

Petitioner.

No. 25-4102
(D.C. Nos. 2:23-CV-00737-FB &
2:17-CR-00037-FB-1)
(D. Utah)

ORDER

Before **HOLMES**, Chief Judge, **TYMKOVICH** and **PHILLIPS**, Circuit Judges.

Claud R. Koerber, proceeding pro se, filed a petition for a writ of mandamus. He argued the district court erred in sua sponte extending the government’s time to file its response to his motion for partial summary judgment because the government did not comply with Rule 6(b) of the Federal Rules of Civil Procedure. He also complained about the district court’s delay in deciding his 28 U.S.C. § 2255 motion, which had been fully briefed and at issue since January 3, 2025. And he asserted the district court had not acknowledged his pending motion to reconsider, which was filed in April 2025. He asked this court to: “Order rescission of the April 18, May 19, and June 20, 2025 extensions as void under Rule 6(b)(1)(B)” and “[d]irect rulings on the pending Motion for Partial Summary Judgment and other unopposed motions within a reasonable timeframe.” Pet. at 30.

On September 16, 2025, the district court entered an order denying Mr. Koerber’s § 2255 motion, his motion for partial summary judgment, and his motion to reconsider.

The district court has now ruled on the motions that Mr. Koerber mentioned in his mandamus petition and any other unopposed motions would be moot by virtue of the district court's denial of his § 2255 motion, which ended the action. We therefore deny as moot his request to direct the court to rule on his motion for partial summary judgment and his other unopposed motions. We also deny Mr. Koerber's request related to the extensions of time in April, May, and June. He has failed to show he has no other adequate means to obtain the relief he seeks because he can now raise any Rule 6(b) error on appeal. *See In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1187 (10th Cir. 2009) (“[T]he party seeking issuance of the writ must have no other adequate means to attain the relief he desires.”); *id.* (explaining “a writ is not a substitute for an appeal”).

Accordingly, we deny Mr. Koerber's mandamus petition.

Entered for the Court

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

CHRISTOPHER M. WOLPERT, Clerk