

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

February 19, 2026

Christopher M. Wolpert
Clerk of Court

In re: DALLIN BRAD HAWKINS,

Petitioner.

No. 25-4129
(D.C. No. 4:20-CV-00090-DN)
(D. Utah)

ORDER

Before **PHILLIPS, EID**, and **CARSON**, Circuit Judges.

Petitioner Dallin Hawkins filed a pro se petition under 28 U.S.C. § 2254 in federal district court in the District of Utah in September 2020, seeking habeas relief from state-court convictions in four state cases. The district court dismissed his habeas petition without prejudice and denied a certificate of appealability (COA) on April 2, 2024, because he did not properly exhaust his state-court remedies and therefore the claims he sought to raise were procedurally defaulted. He did not file a notice of appeal from that judgment.

On October 14, 2025, Mr. Hawkins filed a pro se “Application for COA; Petition for Extraordinary Writ” in this court. The court docketed the document as a petition for writ of mandamus and an application for a COA. Because he filed the COA request in this court more than 18 months after the district-court judgment dismissing his § 2254 petition, which was outside the time specified by Fed. R. App. P. 4 for filing an appeal. Consequently, the document was not effective as a notice of appeal. *See Smith v. Barry*, 502 U.S. 244, 248-49 (1992) (“If a document filed within the time specified by Rule 4

gives the notice required by [Fed. R. App. P.] 3, it is effective as a notice of appeal.”). To the extent Mr. Hawkins now seeks a COA from this court to review the dismissal of his § 2254 petition, his failure to file a timely notice of appeal of that judgment forecloses our review and consideration of his application for a COA. *See id.* at 248 (“noncompliance [with Rule 3, which requires filing a notice of appeal within the period of time specified in Rule 4] is fatal to an appeal”).

In addition to seeking a COA, Mr. Hawkins seeks an “extraordinary writ” from this court based on his allegations of district court error in dismissing his § 2254 petition. Absent an appeal, the only relief he could be requesting by means of an “extraordinary writ” is a writ of mandamus. But Mr. Hawkins does not satisfy the very high standard to be entitled to a writ of mandamus. Specifically, he had an adequate alternative remedy available to him (appeal) that he did not pursue, and mandamus cannot be used as a substitute for appeal. *See Will v. United States*, 389 U.S. 90, 97 (1967).

The “Application for COA; Petition for Extraordinary Writ” (Dkt. No. 1) is denied. The motion to proceed without prepayment of costs or fees (Dkt. No. 7) is granted. All other pending motions are denied as moot (Dkt. Nos. 3, 4, 5, 13, & 14).

Entered for the Court

Per Curiam