

UNITED STATES COURT OF APPEALS March 25, 2009

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

In re: WADE COLE,

Petitioner.

No. 09-1097
(D.C. No. 07-CV-1197-WDM-KMT)
(D. Colo.)

ORDER

Before **BRISCOE, MURPHY, and McCONNELL**, Circuit Judges.

Wade Cole, a Colorado prisoner proceeding pro se, seeks a writ of mandamus ordering the district court to hear and decide his pending habeas application. The application was filed on June 7, 2007, and the case was at issue as of October 29, 2007. Since that time, however, Mr. Cole has filed a number of motions, to which the district court has devoted time and attention. Most recently, on March 19, 2009, the district court ordered the state court to produce the record of Mr. Cole's criminal case. Accordingly, this case is progressing in the district court and mandamus relief is not warranted at this time.

Mr. Cole's motion to proceed in forma pauperis is GRANTED. The petition for a writ of mandamus is DENIED.

Entered for the Court,



ELISABETH A. SHUMAKER, Clerk