

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 18, 2019

Elisabeth A. Shumaker  
Clerk of Court

In re: DAVIS COUNTY COOPERATIVE;  
FIDELITY FUNDING; WORLD  
ENTERPRISES; PPMC, INC.;  
STANDARD INDUSTRIES; ABM, INC.;  
SECURITY FUNDING; MBSC, LLC;  
COP COAL DEVELOPMENT  
COMPANY; LATTER DAY CHURCH  
OF CHRIST; MITCHELL &  
ASSOCIATES; APRIL MCKAY;  
STANDARD INDUSTRIES, INC.; A-FAB  
ENGINEERING,

Petitioners.

No. 19-4019  
(D.C. No. 2:18-CR-00365-JNP-BCW-1)  
(D. Utah)

ORDER

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

This matter comes before the court on Petitioners' Petition for Writ of Mandamus ("Petition"), which seeks relief from the district court's December 7, 2018, and January 17, 2019, discovery orders. In a previous order, we invited the district court and ordered the parties in the underlying criminal case (the United States of America and the five defendants) to respond to the Petition. We also entered a temporary stay of the discovery orders pending further order of this court.

"[A] writ of mandamus is a drastic remedy, and is to be invoked only in extraordinary circumstances." *In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1186 (10th Cir. 2009) (internal quotation marks omitted). "Three conditions must be met

before a writ of mandamus may issue. First, . . . the party seeking issuance of the writ must have no other adequate means to attain the relief he desires. Second, the petitioner must demonstrate that his right to the writ is clear and indisputable. Finally, the issuing court, in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances.” *Id.* at 1187 (citations omitted) (internal quotation marks omitted).

When a writ of mandamus implicates the discovery of potentially privileged information, two additional factors must be established: “(1) disclosure of the allegedly privileged or confidential information renders impossible any meaningful appellate review of the claim of privilege or confidentiality; and (2) the disclosure involves questions of substantial importance to the administration of justice.” *In re Motor Fuel Temperature Sales Practices Litigation*, 641 F.3d 470, 487 (10th Cir. 2011) (internal quotation marks omitted).

Having considered the parties’ and the district court’s responses and Petitioners’ reply, we conclude that Petitioners have not made the required showing and we are not satisfied that a writ is appropriate under the circumstances presented here. Accordingly, we deny the Petition for Writ of Mandamus and order that the stay of the district court’s orders is lifted.

Entered for the Court



ELISABETH A. SHUMAKER, Clerk