

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JOHN G. WESTINE,

Petitioner,

vs.

CIVIL ACTION
No. 11-3114-RDR

(FNU) HOLLINGSWORTH, et al.,

Respondents.

MEMORANDUM AND ORDER

This matter comes before the court on a petition for mandamus submitted by the petitioner.¹ Petitioner states that although the United States Parole Commission granted him a parole release date of July 29, 2011, respondent Warden Hollingsworth and the federal Bureau of Prisons have refused to release him until October 2011. Petitioner offers no evidence in support of these statements.

"Mandamus is a drastic remedy, available only in extraordinary circumstances. Furthermore, the writ is not available when review by other means is possible." *W. Shoshone Bus. Council v.*

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The court notes that petitioner captioned the pleading in Case No. 10-3188-RDR. Because that matter was closed on April 8, 2011, the undersigned directed that a new action be opened to address petitioner's request for mandamus.

Babbitt, 1 F.3d 1052, 1059 (10th Cir. 1993)(citations omitted).

Here, petitioner has both an administrative remedy under available through the Bureau of Prisons, see 28 C.F.R. §§ 542.10 - 542.19, and the federal writ of habeas corpus, 28 U.S.C. §2241, to address his claim that he should be released in July 2011. See, e.g., *Boutwell v. Keating*, 399 F.3d 1203, 1209 (10th Cir.2005)("Habeas corpus is the only avenue for a challenge to the fact or duration of confinement, at least when the remedy requested would result in the prisoner's immediate or speedier release.").

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's request for mandamus relief is denied. Petitioner may present his claims in a petition for habeas corpus.

A copy of this order shall be transmitted to the petitioner.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 17th day of June, 2011.

S/ Richard D. Rogers
RICHARD D. ROGERS
United States Senior District Judge