

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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JOSE MEDINA ESCOBAR,

Plaintiff - Appellant,

v.

No. 07-1334

L. REID; K. COOPER; E. CELLA; T.  
HAUCKS; E. PERRY; D.  
GALLAGHER; SGT. BINDER; C/O  
VALDEZ; J. BROWN; J. SIMS; E.  
DICLUSION; E. MORA; A. LUNA;  
R. WENCL; J. WERMERS; R.  
OLIVETT; C/O JACKSON; L.  
MONTROYA,

Defendants - Appellees.

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ORDER

Filed September 11, 2007

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

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On August 3, 2007, a United States magistrate judge entered a minute order denying Plaintiff's motion for temporary restraining order and/or preliminary injunction. Plaintiff, proceeding *pro se*, appeals.

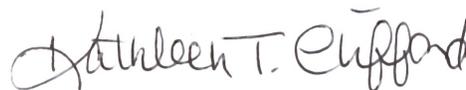
Except for proceedings conducted by a magistrate judge upon designation by

a district judge and consent of the parties pursuant to 28 U.S.C. § 636(c), orders entered by a magistrate judge are not final or immediately appealable. “[W]e have consistently recognized that ‘[a] magistrate exercising “additional duties” jurisdiction remains constantly subject to the inherent supervisory power of the district judge and the judge retains the ultimate responsibility for decision making in every instance.’ ” *Colorado Bldg. & Const. Tr. Coun. v. Andersen Const.*, 879 F.2d 809, 811 (10th Cir. 1989); *see Phillips v. Beierwaltes*, 466 F.3d 1217, 1221 (10th Cir. 2006).

In this case, the parties did not consent to final disposition by a magistrate judge. Consequently, the magistrate judge’s August 3, 2007 minute order is interlocutory and not immediately appealable under 28 U.S.C. § 1291 or under any recognized exception to the final judgment rule. This minute order may be appealed upon entry of an order by the district judge denying Plaintiff’s motion for preliminary injunction, *see* 28 U.S.C. § 1292(a), or upon entry of a final judgment by the district judge in Plaintiff’s civil rights action.

This appeal is **DISMISSED** for lack of appellate jurisdiction.

Entered for the Court,  
Elisabeth A. Shumaker, Clerk



Kathleen T. Clifford  
Attorney - Deputy Clerk