

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

October 16, 2008

Elisabeth A. Shumaker  
Clerk of Court

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MICHAEL DEWAYNE BELL,  
Plaintiff - Appellant,

v.

DOUGLAS SAMUELS, Special  
Agent, FBI; J. MITCHELL HOLMES,  
Special Agent, FBI,

Defendants - Appellees.

No. 08-6218  
(D.C. No. 5:08-CV-00613-F)

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ORDER

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Before **KELLY**, **HARTZ**, and **GORSUCH**, Circuit Judges.

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This court lacks jurisdiction over this appeal because no final or appealable order has been entered by the district court and because this court may not hear an appeal taken directly from a magistrate judge's order unless the parties have consented to proceed before a magistrate.

This court has jurisdiction to review only final decisions, 28 U.S.C. § 1291, and specific types of interlocutory orders not applicable here. A final decision is one that “ends the litigation on the merits and leaves nothing for the court to do but

execute the judgment.”” *Cunningham v. Hamilton County*, 527 U.S. 198, 204 (1999) (quoting *Van Cauwenberghe v. Biard*, 486 U.S. 517, 521-22 (1988)). Moreover, except for proceedings conducted by the magistrate judge on consent of the parties pursuant to 28 U.S.C. § 636(c), a court of appeals lacks jurisdiction to hear an appeal taken directly from a decision of a magistrate judge. See *Colorado Building & Construction Trade Council v. B.B. Andersen Construction Co.*, 879 F.2d 809 (10th Cir. 1989).

Accordingly, this appeal is **DISMISSED**.

Entered for the Court  
ELISABETH A. SHUMAKER, Clerk



Ellen Rich Reiter  
Deputy Clerk/Jurisdictional Attorney