

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

October 19, 2010

Elisabeth A. Shumaker
Clerk of Court

JOSEPH BRADSHAW; TIMOTHY
TUTTAMOR,

Plaintiffs - Appellants,

v.

BOP DIRECTOR LAPPIN; ADX
WARDEN WILEY; UNIT TEAM
MEMBER COLLINS; UNIT TEAM
MEMBER SUDLOW; UNIT TEAM
MEMBER KNOX; UNIT TEAM
MEMBER MADISON; UNIT TEAM
MEMBER FOSTER; UNIT TEAM
MEMBER FINLAN; DR. LEYBA; DR.
NAFZIGER; DR. AMIRKHAN; P.A.
OSAGIE; UNKNOWN MEDICAL
STAFF; UNKNOWN DENTIST;
UNKNOWN UTILIZATION
COMMITTEE MEMBERS; UNKNOWN
PROJECTED UNIT TEAM MEMBERS,

Defendants - Appellees.

No. 10-1434
(D.C. No. 1:07-CV-02422-MSK-BNB)
(D. Colo.)

ORDER

Before **BRISCOE**, Chief Circuit Judge, **GORSUCH**, and **HOLMES**, Circuit Judges.

This appeal is before the court based on Fed. R. App. P. 54(b) certifications set forth by the district court in its September 7, 2010 Order and September 10, 2010 Judgment. The

Rule 54(b) certifications do not contain detailed reasons for certification of the district court's order and separate judgment as final. The appeal is dismissed.

In a September 22, 2010 Show Cause Order, the parties were directed to obtain a district court order containing a final judgment under Rule 54(b) in compliance with this court's decision in *Stockman's Water Company, LLC v. Vaca Partners, L.P.*, 425 F.3d 1263, 1264-66 (10th Cir. 2005), as to the September 7, 2010 Order and September 10, 2010 Judgment, *or* a district court order explicitly resolving Plaintiff Bradshaw's remaining claims based on deliberate indifference to his medical needs.

In response to the show cause, Appellants-Plaintiffs Joseph Bradshaw and Timothy Tuttamore, federal prisoners proceeding *pro se*, forwarded to this court a copy of the district court's September 7, 2010 Order. No response was filed by Appellees-Defendants, and no party moved in the district court for a Rule 54(b) certification in which the district court clearly articulates its reasons for granting such certification.

In the September 7, 2010 Order at 26-27 (doc. 280), the district court stated:

The Court finding that there is no just reason for delay in entering judgment in favor of the Defendants mentioned herein pursuant to Fed. R. Civ. P. 54(b), the Clerk of the Court shall promptly enter judgment in favor of the Defendants listed in this paragraph and against the Plaintiffs.

And in the September 10, 2010 Judgment at 2 (doc. 284), the district court stated:

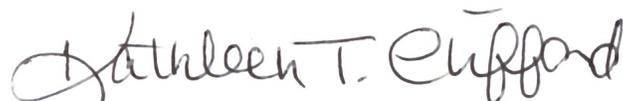
IT IS FURTHER ORDERED that pursuant to the Opinion and Order (#280) and the Court having found that there is no just reason for delay in entering judgment in favor of the Defendants mentioned herein, pursuant to Fed. R. Civ. P. 54(b), judgment is entered in favor of the Defendants Collins, Sudlow, Know, Madison, Foster, Finlan, Lappin and Wiley and against the Plaintiffs Bradshw and Tuttamore.

In *Stockman's Water Company*, this court stated that “courts entering a Rule 54(b) certification should ‘clearly articulate their reasons and make careful statements based on the record supporting their determination of “finality” and “no just reason for delay” so that we [can] review a Rule 54(b) order more intelligently[] and thus avoid jurisdictional remands.’” *Id.* 425 F.3d at 1265 (quoting *Old Republic Ins. Co. v. Durango Air Serv., Inc.*, 283 F.3d 1222, 1225 n.5 (10th Cir. 2002)).

In this case, the court finds that the Rule 54(b) certifications in the September 7, 2010 Order and September 10, 2010 Judgment contain no analysis of the factors relevant under a Rule 54(b) certification and fail to comply with the Rule 54(b) requirements set forth in *Stockman's Water Company*. Consequently, the district court's Rule 54(b) certifications fail to provide this court with jurisdiction over the order and separate judgment appealed by Plaintiffs.

The appeal is **DISMISSED** for lack of appellate jurisdiction. All pending motions are **DENIED**.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in black ink that reads "Kathleen T. Clifford". The signature is written in a cursive, flowing style.

Kathleen T. Clifford
Attorney - Deputy Clerk