

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 17, 2014

Elisabeth A. Shumaker
Clerk of Court

DAVID WEBB,

Plaintiff - Appellant,

v.

TIMOTHY SCOTT, Police Officer for Ogden City Police Department; FNU MURRY; TERRY L. THOMPSON, Sheriff for Weber County; KEVIN MCCLEOD, Undersheriff for Weber County Sheriff's Office; KEVIN BURTON, Captain and Corrections Division Chief Deputy for Weber County Correctional Facility; FNU WEST, Sgt. at Weber County Correctional Facility; FNU JOHNSON, Sgt. at Weber County Correctional Facility; FNU GATES, Correctional Officer at Weber County Correctional Facility; FNU FLATT, Correctional Officer at Weber County Correctional Facility; JON GREINER, Chief of Police at Ogden City Police Department,

Defendants - Appellees,

and

WEBER COUNTY GOVERNMENT;
CRAIG L. DEARDEN; JAN M.
ZOGMAISTER; KERRY W. GIBSON;
DEE W. SMITH; CAITLIN GOCHOUR;
NEIL K. GARNER; AMY WICKS; BART
BLAIR; BRANDON STEPHENSON;
DOUG STEPHENS; SUSIE VON
HOOSER; JAMES M. RETALLICK;
OGDEN CITY CORPORATION,

No. 14-4051

(D.C. No. 1:11-CV-00128-DB-DBP)

Defendants.

ORDER

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

The plaintiff appeals an interlocutory order of the district court denying his motions to hold the defendants liable for non-preservation of relevant discovery and to authenticate the dash camera recordings. This matter is dismissed for lack of appellate jurisdiction. No final or otherwise appealable order has been entered by the district court. *See* 28 U.S.C. § 1291.

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)).

The plaintiff argues that there is jurisdiction under 28 U.S.C. § 1292(b). In order to appeal under § 1292(b), a party must first obtain from the district court, in writing, an order stating that the order sought to be appealed “involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate determination of the litigation.” No § 1292(b) order was entered by the district court.

Nor does the fact that the plaintiff must wait until the entry of a final judgment to obtain review deny him of his right to petition the government.

APPEAL DISMISSED. The plaintiff's request for in forma pauperis status for appeal is denied.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Ellen Rich Reiter
Jurisdictional Attorney