

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

September 8, 2014

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

WADE LAY,

Plaintiff - Appellant

v.

OKLAHOMA DEPARTMENT OF
CORRECTIONS; ANITA TRAMMELL,
Warden; KEITH SHERWOOD, Case
Manager OSP; OKLAHOMA STATE
PENITENTIARY,

Defendants - Appellees

No. 14-7061
(D.C. No. 6:13-CV-00481-RAW-SPS)

ORDER

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

The plaintiff appeals orders of the district court denying his motion to add a defendant and directing the district clerk to return his third amended complaint. This court lacks jurisdiction because no final or appealable order has been entered by the district court.

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 contends in his notice of appeal that this court has jurisdiction under the collateral order doctrine. See *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541 (1949). This argument is without merit. In order to come within the collateral order doctrine, the order being appealed must meet three conditions. The order must “(1) conclusively determine the disputed question, (2) resolve an important issue completely separate from the merits of the action, and (3) be effectively unreviewable on appeal from a final judgment.” *Will v. Hallock*, 546 U.S. 345, 349 (2006) (internal quotations omitted).

The orders being appealed here do not meet these requirements.

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

by: Ellen Rich Reiter
Jurisdictional Attorney