

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 17, 2014

**Elisabeth A. Shumaker
Clerk of Court**

BOBBY JOE SMITH, II,

Petitioner - Appellant,

v.

ROBERT C. PATTON,

Respondent - Appellee.

No. 14-7071
(D.C. No. 6:12-CV-00314-RAW-KEW)

ORDER

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

This is an interlocutory appeal filed by a petitioner in a 28 U.S.C. § 2254 matter. 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)).

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Ellen Rich Reiter
Jurisdictional Attorney