

UNITED STATES COURT OF APPEALS

December 10, 2015

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

NICK JAMES GONZALES,

Plaintiff - Appellant,

v.

GERMAN FRANCO; MICHELLE
BOYER, Grievance Officer; THE NEW
MEXICO CORRECTIONS
DEPARTMENT, Supervisors and
Administrators; GARY MARCIAL, Unit
Manager,

Defendants - Appellees.

No. 15-2206
(D.C. No. 1:14-CV-01163-JB-SMV)
(D. N.M.)

ORDER

Before **BRISCOE, HARTZ, and HOLMES**, Circuit Judges.

Pro se plaintiff Nick J. Gonzales appeals the district court’s November 2, 2015 interlocutory order. This court entered an order to show cause as to why the appeal should not be dismissed for lack of appellate jurisdiction. The appellant filed a response. The appellee also filed a response combined with a motion to dismiss for lack of jurisdiction. After considering the responses and the applicable law, we dismiss the appeal for lack of jurisdiction.

Gonzales appeals the district court’s November 2, 2015 order, which denied leave to file an amended complaint and denied his motion to reconsider an earlier order that

dismissed some claims against some parties. The district court case remains ongoing. The remaining defendant recently filed an answer. Neither a final order disposing of all claims against all parties nor a final judgment has been entered. See Fed. R. Civ. P. 58.

This court generally has jurisdiction to review only a final decision of a district court. 28 U.S.C. § 1291. A final decision is one that fully terminates all matters as to all parties and causes of action and leaves nothing for the district court to do but execute the judgment. Quackenbush v. Allstate Ins. Co., 517 U.S. 706, 712 (1996); Harolds Stores, Inc. v. Dillard Dep't Stores, Inc., 82 F.3d 1533, 1541 (10th Cir. 1996). Piecemeal review of ordinary interlocutory district court orders is not permitted. Southern Ute Indian Tribe v. Leavitt, 564 F.3d 1198, 1207 (10th Cir. 2009). Because the order being appealed is not a final decision, we lack jurisdiction to consider Gonzales's appeal. Gonzales's response to the court's jurisdictional challenge does not persuade us otherwise.

The appellant is reminded that he may file an appeal in compliance with all applicable procedural rules after the district court has resolved the entire case and entered final judgment. See Fed. R. App. P. 4(a).

APPEAL DISMISSED. The appellee's motion to dismiss is denied as moot.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Lara Smith
Counsel to the Clerk