

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 19, 2016

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WILLIS A. CENTER,

Defendant - Appellant.

No. 16-8106
(D.C. Nos. 2:16-CV-00102-NDF &
2:14-CR-00112-NDF-1)
(D. Wyo.)

ORDER

Before **LUCERO, PHILLIPS**, and **McHUGH**, Circuit Judges.

We raise *sua sponte* the question of whether this court has jurisdiction to consider this appeal. Appellant filed a pro se notice of appeal of the district court’s August 5, 2016 order, denying Appellant’s pro se motion for leave to amend his 2255 motion. The August 5, 2016 order notes that Appellant is represented by counsel. We note that the 2255 proceedings are ongoing and that the district court has not yet entered final judgment.

Except in certain circumstances that are not present here, the court’s appellate jurisdiction is limited to review of final judgments. *U.S. v. Nixon*, 418 U.S. 683, 690-92 (1974); *Albright v. Unum Life Ins. Co.*, 59 F.3d 1089, 1092 (10th Cir. 1995). A decision is “not final, ordinarily, unless it ends the litigation on the merits and leaves nothing for

the court to do but execute the judgment.” *Cunningham v. Hamilton County, Ohio*, 527 U.S. 198, 204 (1999) (internal quotations omitted).

Because the order that is the subject of this appeal is not a final judgment and is not otherwise appealable, we lack jurisdiction to consider the appeal.

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Lindy Lucero Schaible
Counsel to the Clerk