

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

JOSE MEDINA ESCOBAR,

Plaintiff - Appellant,

v.

L REID; K COOPER; E. CELLA; T
HAUCKS; E PERRY; D GALLAGHER;
BINDER, Sgt.; VALDEZ, C/O; J
BROWN; J SIMS; E DICLUSION; E
MORA; A LUNA; R WENCL; J
WERMERS; R OLIVETT;
JACKSON, C/O; L MONTOYA;
PAULINO, Lt.; RAYMOND, C/O; D
SMITH, Sgt.; WILLIAMS, C/O;
BALL, C/O; CONWAY, Lieutenant; DE
SANTOS; MIKLICH, Captain; LT
MATHEWS; OATES, Sgt.;
COLTON, C/O; HAMULA, C/O;
WOOLFOLK, C/O; CRANEY, Dr.;
NURSE RITA, and Two John Doe(s),

Defendants - Appellees.

No. 07-1500
(D.C. No. 06-cv-1222-EWN-KLM)

ORDER

Filed December 4, 2007

Before **BRISCOE**, **MURPHY**, and **O'BRIEN**, Circuit Judges.

This court lacks jurisdiction over this appeal because the order being appealed is

not final or otherwise immediately appealable.

Plaintiff Jose Medina Escobar appeals an order entered by the magistrate judge denying his motion for reconsideration of the magistrate judge's earlier order denying his motion for appointment of counsel.

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 disposes of all issues on the merits and leaves nothing for the court to do but execute the judgment. *Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 712 (1996). As an initial matter, orders entered by magistrate judges and not acted upon by the district court are generally not final and appealable. *See Phillips v. Beierwaltes*, 466 F.3d 1217, 1222 (10th Cir. 2006).

More importantly, however, an order denying an appointment of counsel is not a final decision or otherwise immediately appealable as of right, even when issued by a district judge. *Cotner v. Mason*, 657 F.2d 1390, 1392 (10th Cir. 1981).

Accordingly, this appeal is DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Lara Smith".

by: Lara Smith
Counsel to the Clerk