

December 4, 2008

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

PATRICK DURAY PORTLEY-EL,

Plaintiff - Appellant,

v.

ROBERT STEINBECK, individually;
TIMOTHY RITTER, individually;
CURTIS ROBINETTE, individually; S.
ADKINS, individually,

Defendants - Appellees.

No. 08-1445
(D.C. No. 1:06-CV-02096-MEH-MJW)
(D. Colorado)

ORDER

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

Plaintiff, a state prisoner proceeding *pro se*, appeals an October 31, 2008 Order entered by a United States magistrate judge overruling Plaintiff's objections to the magistrate's October 16, 2008 Order, which denied Plaintiff's request for imposition of sanctions against Defendants.

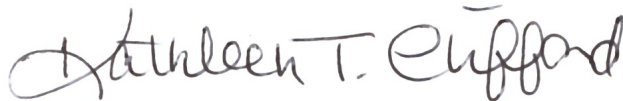
"Federal appellate jurisdiction generally depends on the existence of a decision by the District Court that 'ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.' " *Federal Deposit Insurance Corp. v. McGlamery*, 74 F.3d 218, 221

(10th Cir. 1996) (quoting *Coopers & Lybrand v. Liversay*, 437 U.S. 463, 467 (1978)). In *Will v. Hallock*, 546 U.S. 345 (2006), the Supreme Court stressed that very few types of interlocutory orders can qualify as immediately appealable collateral orders. The requirements are strict and “unless they are kept so, the underlying doctrine will overpower the substantial finality interests [28 U.S.C.] § 1291 is meant to further.” *Id.* at 349.

Although the parties consented to final judgment by a magistrate judge pursuant to 28 U.S.C. § 636(c), the orders appealed by Plaintiff do not constitute final or immediately appealable decisions under § 1291 or under any recognized exception to the final judgment rule. These orders may be appealed upon entry of final judgment by the magistrate in Plaintiff’s civil rights action.

The appeal is **DISMISSED** for lack of appellate jurisdiction.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, reading "Kathleen T. Clifford". The signature is written in a cursive, flowing style with a large initial 'K'.

Kathleen T. Clifford
Attorney - Deputy Clerk