

January 29, 2009

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUITElisabeth A. Shumaker  
Clerk of Court

TAM HUYNH,

Petitioner - Appellant,

v.

LOU ARCHULETA, Warden; THE  
ATTORNEY GENERAL OF THE  
STATE OF COLORADO,

Respondents - Appellees.

No. 09-1037

(D.C. No. 1:06-CV-02118-CMA-CBS)

## ORDER

Before **BRISCOE**, **MURPHY**, and **GORSUCH**, Circuit Judges.

The petitioner appeals a magistrate judge's recommendation that his 28 U.S.C. § 2254 petition be denied. We dismiss for lack of jurisdiction.

Except for proceedings conducted by the magistrate judge on consent of the parties pursuant to 28 U.S.C. § 636(c), a court of appeals lacks jurisdiction to hear an appeal taken directly from a decision of a magistrate judge. *See Colorado Building & Construction Trade Council v. B.B. Andersen Construction Co.*, 879 F.2d 809 (10th Cir. 1989). *See also Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991) (explaining the necessity of filing objections in the district court to a magistrate judge's recommendation).

**APPEAL DISMISSED.**

Entered for the Court,  
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Ellen Rich Reiter".

Ellen Rich Reiter  
Deputy Clerk/Jurisdictional Attorney