

January 5, 2010

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

TIMOTHY DOYLE YOUNG,

Plaintiff - Appellant,

v.

BUREAU OF PRISONS,

Defendant - Appellee.

No. 09-1577

(D.C. No. 1:09-CV-02849-BNB)

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ORDER

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Before **O'BRIEN**, **TYMKOVICH**, and **GORSUCH**, Circuit Judges.

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This court lacks jurisdiction over this appeal because no final or appealable order has been entered by the district court. The petitioner states in his notice of appeal that he is appealing the denial of his motion for a preliminary injunction. However, although the magistrate judge did deny the petitioner's motion for stay, the district court has not ruled on the petitioner's motion for a preliminary injunction.

If the petitioner intends to appeal the denial of the stay, this court lacks 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).

Moreover, 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 “‘ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.’” *Cunningham v. Hamilton County*, 527 U.S. 198, 204 (1999) (quoting *Van Cauwenberghe v. Biard*, 486 U.S. 517, 521-22 (1988)).

**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