

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

August 25, 2010
Elisabeth A. Shumaker
Clerk of Court

TIMOTHY HATTEN,

Plaintiff - Appellant,

v.

ISAAC FREEBORN; MARNE BOYLE;
A. MERRITT; B. GREENWOOD; J.P.
YOUNG; RUSSELL DeGROOTE; DR.
JOHN DOE; B. CINK; E. REICHERT;
KEN EVERHART; GREGORY
KIZZIAH,

Defendants - Appellees.

No. 10-1205
(D.C. No. 1:09-CV-02729-CMA-MJW)

ORDER

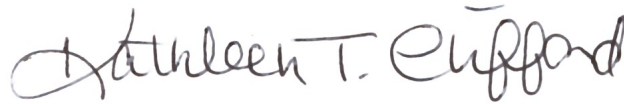
Before **TACHA, GORSUCH, and HOLMES**, Circuit Judges.

This appeal is before the court based on a show cause order questioning appellate jurisdiction and directing the parties to obtain a district court order either containing a final judgment under Fed. R. Civ. P. 54(b) as to the March 17, 2010 Order appealed by Plaintiff Timothy Hatten or explicitly resolving Plaintiff's Eighth Amendment claims against the remaining eight Defendants. *See Stockman's Water Company, LLC v. Vaca Partners, L.P.*, 425 F.3d 1263, 1265 (10th Cir. 2005); *Lewis v. B. F. Goodrich Co.*, 850 F.2d 641, 645-46 (10th Cir. 1988).

This court lacks jurisdiction. The parties did not move in the district court for a Rule 54(b) certification and did not file anything in this court explaining their failure to do so. Plaintiff's Eighth Amendment claims against several Defendants remain unresolved in the district court. Consequently, the March 17, 2010 Order and the April 26, 2010 Order appealed by Plaintiff are interlocutory and not immediately appealable under 28 U.S.C. § 1291 or under any recognized exception to the final judgment rule.

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