

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

May 16, 2016

**Elisabeth A. Shumaker
Clerk of Court**

DAVID WEBB,

Plaintiff - Appellant,

v.

TERRY L. THOMPSON, Sheriff for
Weber County; KEVIN McCLEOD,
Undersheriff for Weber County Sheriff's
Office; KEVIN BURTON, Captain and
Corrections Division Chief Deputy for
Weber County Correctional Facility;
TIMOTHY SCOTT, Police Officer for
Ogden City Police Department; FNU
MURRAY, Police Officer at Ogden City
Police Department; JON GREINER, Chief
of Police at Ogden City Police Dept.; FNU
WEST, Sgt. at Weber County Correctional
Facility; FNU JOHNSON, Sgt. at Weber
County Correctional Facility; FNU
FLATT, Correctional Officer at Weber
County Correctional Facility,

Defendants - Appellees,

and

FNU GATES,

Defendant.

No. 16-4074
(D.C. No. 1:11-CV-00128-DN-EJF)
(D. Utah)

ORDER

Before **KELLY, LUCERO**, and **HOLMES**, Circuit Judges.

Pro se plaintiff David Webb appeals the district court's April 25, 2016 docket text order denying Mr. Webb's March 24, 2016 motion to appoint counsel. After the appeal was opened, this court challenged the appellant to demonstrate appellate jurisdiction. After considering his response, we conclude that jurisdiction is lacking and dismiss the appeal.

This court generally has jurisdiction to review only final decisions of district courts, except in circumstances not present here. 28 U.S.C. § 1291. A final decision is one that fully terminates all matters as to all parties and causes of action and leaves nothing for the district court to do but execute the judgment. *Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 712 (1996); *Harolds Stores, Inc. v. Dillard Dep't Stores, Inc.*, 82 F.3d 1533, 1541 (10th Cir. 1996). Piecemeal review of interlocutory district court orders is generally not allowed. *Southern Ute Indian Tribe v. Leavitt*, 564 F.3d 1198, 1207 (10th Cir. 2009). This court has held that absent extraordinary circumstances an order denying a civil litigant's motion for appointed counsel is not appropriate for interlocutory appeal. *Cotner v. Mason*, 657 F.2d 1390, 1392 (10th Cir. 1981).

Mr. Webb is not appealing a final order. His civil rights case is still pending in the district court, and final judgment has not been entered. See Fed. R. Civ. P. 58. Moreover, this court's precedent forecloses his premature appeal. In *Cotner*, this court considered and rejected arguments similar to those advanced by the appellant in response to our order to show cause. 657 F.2d at 1391-92. Just as in *Cotner*, we see "no persuasive reason to depart in this case from the strong policy against 'piecemeal appellate disposition of

what is, in practical consequence, but a single controversy.’” *Id.* at 1392 (citing *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 170 (1974)).

APPEAL 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