

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 11, 2016

Elisabeth A. Shumaker
Clerk of Court

DAVID WEBB,

Plaintiff - Appellant,

v.

TIMOTHY SCOTT, Police Officer for
Ogden City Police Department; FNU
MURRAY, Police Officer at Ogden City
Police Department; 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; 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; JON J. GREINER,
Chief of Police @ Ogden City Police
Dept.,

Defendants - Appellees,

and

FNU GATES, Correctional Officer at
Weber County Correctional Facility,

Defendant.

No. 16-4134
(D.C. No. 1:11-CV-00128-DN-EJF)
(D. Utah)

ORDER

Before **MATHESON**, **BACHARACH**, and **MORITZ**, Circuit Judges.

This court lacks jurisdiction because no final or otherwise appealable order has been entered by the district court. The plaintiff appeals six interlocutory orders. The matter is still proceeding in the district court.

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 disposes of all issues on the merits and leaves nothing for the court to do but execute the judgment. *Van Cauwenberghe v. Biard*, 486 U.S. 517, 521 (1988).

None of the orders being appealed is appealable under the collateral order doctrine as set forth in *Cohen v. Beneficial Loan Corp.*, 337 U.S. 541 (1949). In order to come within the collateral order doctrine, the order being appealed must meet three conditions. The order must “(1) conclusively determine the disputed question, (2) resolve an important issue completely separate from the merits of the action, and (3) be effectively unreviewable on appeal from a final judgment.” *Will v. Hallock*, 546 U.S. 345, 349 (2006) (internal quotations omitted). Moreover, an order denying Rule 54(b) certification is not appealable. See *McCall v. Deeds*, 849 F.2d 1259 (9th Cir.1988); *Makuc v. American Honda Motor Co.*, 692 F.2d 172, 173 (1st Cir.1982) (because only the granting

of a Rule 54(b) motion interferes with the policy against piecemeal review, only the grant of the motion is reviewable under the abuse of discretion standard).

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

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

by: Ellen Rich Reiter
Jurisdictional Attorney