

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 18, 2016

Elisabeth A. Shumaker
Clerk of Court

WADE LAY,

Plaintiff - Appellant,

v.

DAVID ORMAN, Postal Agent, OSP;
NEAMYRA RIDDLE, Postal Agent
Director, OSP; ANITA TRAMMEL,
Warden; JERRY PERRY, Unit Mgr, OSP;
LT. HORVANT; DR. MARKER, Medical
Dr, OSP; ROBERT PATTON, Director,
ODOC; OKLAHOMA STATE
PENITENTIARY; SGT. GRAHAM,
Security Officer, OSP; OKLAHOMA
DEPARTMENT OF CORRECTIONS;
MR. COPICH, Inspector, OSP,

Defendants - Appellees.

No. 16-7060
(D.C. No. 6:15-CV-00477-JHP-SPS)
(E.D. Okla.)

ORDER

Before **LUCERO**, **PHILLIPS**, and **McHUGH**, Circuit Judges.

We raise sua sponte the question of whether this court has jurisdiction to consider this appeal. *Amazon, Inc. v. Dirt Camp, Inc.*, 273 F.3d 1271, 1274 (10th Cir. 2001) (noting that “we have an independent duty to examine our own jurisdiction”). Plaintiff Wade Lay seeks to appeal the district court’s denial of his motion for a temporary stay of proceedings and for an order directing the defendants to return his personal and legal property so he can prepare an amended complaint as directed by the court. The district

court denied the motion for stay and request for an order but extended the deadline for Lay to file his amended complaint.

Generally this court's appellate jurisdiction is limited to review of final decisions of the district courts. 28 U.S.C. § 1291. The district court's order, which extended the time for Lay to file an amended complaint, is not a final decision. This court may review an interlocutory order granting or denying injunctive relief, *see* § 1292(a)(1), but an order related to a request to compel action in the course of the litigation is not an injunction within the meaning of § 1292(a)(1). *See Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 279 (1988) ("An order by a federal court that relates only to the conduct or progress of litigation before that court ordinarily is not considered an injunction and therefore is not appealable under § 1292(a)(1)."); *Mercer v. Magnant*, 40 F.3d 893, 896 (7th Cir. 1994) ("Only orders awarding relief on the merits, or effectively foreclosing some element of relief, may be appealed as injunctions.").

Accordingly, we lack jurisdiction to consider this appeal.

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro
Counsel to the Clerk