

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 14, 2016

Elisabeth A. Shumaker
Clerk of Court

GLOBAL E, LLC, d/b/a Pioneer Park
MHC,

Plaintiff - Appellee,

v.

MARTI LUNDAHL; HOLLIE TELFORD,

Defendants - Appellants.

No. 16-8029
(D.C. No. 2:15-CV-00188-ABJ)
(D. Wyo.)

ORDER

Before **TYMKOVICH**, Chief Judge, **BRISCOE** and **LUCERO**, Circuit Judges.

This court lacks jurisdiction over this appeal. Marti Lundahl and Holli Telford (the Lundahls) attempted to remove a state eviction action brought by Global E, LLC to federal district court. The district court concluded it lacked jurisdiction and remanded the state eviction action to state court. (This court notes that the district court did not open a new proceeding when the Lundahls filed their notice of removal.)

A remand order based on lack of subject matter jurisdiction is not appealable. *See* 28 § 1447(d) (providing that, with an exception not applicable here, “[a]n order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise.”); *Powerex Corp. v. Reliant Energy Services*, 551 U.S. 224, 232 (2007) (“We hold that when a district court remands a properly removed case because it

nonetheless lacks subject-matter jurisdiction, the remand is ... shielded from review by § 1447(d).”); *Kircher v. Putnam Funds Trust*, 547 U.S. 633, 640 (2006) (“[W]e have relentlessly repeated that ‘any remand order issued on the grounds specified in § 1447(c) [is immunized from all forms of appellate review], whether or not that order might be deemed erroneous by an appellate court.’”) (quoting *Thermtron Products, Inc. v. Hermansdorfer*, 423 U.S. 336, 351 (1976)); *Flores v. Long*, 110 F.3d 730, 732, 733 (10th Cir. 1997) (holding that, even if the district court “employed erroneous principles in concluding that it was without jurisdiction,” there is no appellate jurisdiction to review a remand order entered in a removed case which is “based to a fair degree upon the court’s finding that it lacked subject matter jurisdiction to hear the case”) (internal quotes omitted). *See also Western Insurance Co. v. A and H Insurance, Inc.*, 784 F.3d 725, 729 (10th Cir. 2015) (“when a district court unambiguously invokes lack of subject matter jurisdiction, we are permitted only to determine whether that was a ‘plausible rationale.’”) (quoting *Moody v. Great Western Railway Co.*, 536 F.3d 1158, 1163 (10th Cir. 2008)).

Accordingly, this appeal is **DISMISSED**.

Entered for the Court
 ELISABETH A. SHUMAKER, Clerk

 by: Ellen Rich Reiter
 Jurisdictional Attorney