

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 22, 2019

Elisabeth A. Shumaker
Clerk of Court

CYNTHIA ORTIZ,

Plaintiff - Appellant,

v.

CHARLES PERRY, individually;
MATTHEW POWELL, individually;
JOSH BURSON, individually,

Defendants - Appellees.

No. 19-5003
(D.C. No. 4:17-CV-00489-JHP-JFJ)
(N.D. Okla.)

ORDER

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

Pro se appellant Cynthia Ortiz seeks to appeal an order the United States District Court for the Northern District of Oklahoma entered pursuant to 28 U.S.C. §§ 1406(a) and 1631, transferring her civil suit to the United States District Court for the Northern District of Texas, where the case proceeded and judgment has now entered. For the reasons set forth below, the court dismisses the appeal for lack of jurisdiction. *See Kennedy v. Lubar*, 273 F.3d 1293, 1301 (10th Cir. 2001) (noting that appellate courts have a duty to confirm that jurisdiction is proper).

Absent a certification order under 28 U.S.C. § 1292(b), an order transferring a case between district courts is not typically appealable until the entry of final judgment. *See Chrysler Credit Corp. v. Country Chrysler, Inc.*, 928 F.2d 1509, 1517 n.7 (10th Cir. 1991). Here, however, the Northern District of Oklahoma denied Ms. Ortiz’s request for a § 1292(b) certification. *See In re Ortiz*, No. 18-5057 (10th Cir. July 12, 2018) (dismissing Ms. Ortiz’s attempt at interlocutory appeal for lack of jurisdiction because the district court denied § 1292(b) certification). And, although the Northern District of Texas has now entered final judgment in Ms. Ortiz’s case, that court is not within the territory of this circuit. *See* 28 U.S.C. § 1294 (providing that appeals from reviewable decisions of the district courts shall be taken “to the court of appeals for the circuit embracing the district”).

Once the Northern District of Texas opened the transferred case on May 30, 2018, jurisdiction transferred to that district and this court lost jurisdiction over any appeal. *See Chrysler Credit Corp.*, 928 F.2d at 1516-17. “The date the papers in the transferred case are docketed in the transferee court also forms the effective date that appellate jurisdiction in the transferor court is terminated; the transfer order becomes unreviewable as of that date.” *Id.* Accordingly, this court is without jurisdiction to consider Ms. Ortiz’s appeal. *See also In re Ortiz*, No. 18-5114 (10th Cir. Jan. 10, 2019) (dismissing Ms. Ortiz’s post-transfer request for a writ of mandamus for lack of jurisdiction “because this case has been transferred to a district court outside of the Tenth Circuit”).

The court notes that Ms. Ortiz has appealed the Northern District of Texas's order to the Fifth Circuit, where it remains pending. *See Ortiz v. Perry, et al.*, No. 18-11623 (5th Cir.).

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read 'LA Lee', is written over the printed name of Lisa A. Lee.

by: Lisa A. Lee
Counsel to the Clerk