

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 26, 2021

**Christopher M. Wolpert
Clerk of Court**

RONALD L. BORDEN,

Plaintiff - Appellant,

v.

COUNTY OF COSTILLA, COLORADO,
CEO: Stephen Romero; CAPITAL ONE
FINANCIAL CORPORATION, CEO:
Richard D. Fairbank; UNITED PARCEL
SERVICE, CEO: Carol Tome; STATE OF
COLORADO, Governor: Jared Polis,

Defendants - Appellees.

No. 20-1445
(D.C. No. 1:20-CV-02905-RBJ-KMT)
(D. Colo.)

ORDER

Before **HOLMES, PHILLIPS**, and **CARSON**, Circuit Judges.

This matter is before the court on its December 22, 2020 jurisdictional show cause order and pro se appellant Ronald L. Borden's response to that order. Upon consideration of the response, the district court's docket, and the applicable law, the court dismisses the appeal for the reasons set forth below.

Mr. Borden filed the civil rights lawsuit underlying this appeal on September 24, 2020, in the District of Colorado. On December 9, 2020, the district court entered a minute order denying Mr. Borden's motion to amend his complaint because he did not

comply with the district court's prior orders. On December 21, 2020, Mr. Borden filed a *Notice of Interlocutory Appeal*, challenging the December 9, 2020 minute order.

This court has jurisdiction over appeals from all final decisions of the district courts under 28 U.S.C. § 1291. Final decisions are those that “end the litigation on the merits and leave nothing for the court to do but execute the judgment.” *See Utah v. Norton*, 396 F.3d 1281, 1286 (10th Cir. 2005).

A review of the district court docket demonstrates that proceedings in the district court are ongoing. Because the district court has not yet entered a final decision under § 1291, this court lacks jurisdiction to consider the appeal. Further, the court declines to construe Mr. Borden's notice of appeal as a petition for mandamus. *In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1186 (10th Cir. 2009) (“[m]andamus is not a substitute for appeal” and is a “drastic remedy that is invoked only in extraordinary circumstances”) (internal citation and quotation marks omitted)).

APPEAL DISMISSED.

Entered for the Court
CHRISTOPHER M. WOLPERT, Clerk

A handwritten signature in cursive script, reading "Olenka George".

By: Olenka M. George
Counsel to the Clerk