

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

December 2, 2020

Christopher M. Wolpert
Clerk of Court

BO ZOU,

Plaintiff - Appellant,

v.

LINDE ENGINEERING NORTH
AMERICA, INC.,

Defendant - Appellee.

No. 20-5099
(D.C. No. 4:19-CV-00554-JFH-JFJ)
(N.D. Okla.)

ORDER

Before **TYMKOVICH**, Chief Judge, **PHILLIPS**, and **EID**, Circuit Judges.

Pro se Appellant Bo Zou filed a notice of appeal from the magistrate judge's September 21, 2020 order that imposes a discovery limit on witness depositions, prohibits Mr. Zou from making further discovery requests absent leave of court, and prohibits Mr. Zou from filing further motions for contempt or sanctions with respect to current discovery. This court entered an order to show cause why the appeal should not be dismissed for lack of jurisdiction. Mr. Zou has filed a response. Upon consideration, we dismiss this appeal for lack of appellate jurisdiction.

This court generally has jurisdiction to review only final decisions of district courts. 28 U.S.C. § 1291; *see also Riley v. Kennedy*, 553 U.S. 406, 419 (2008) (describing final decisions as those that end the litigation on the merits and leave nothing

for the court to do but execute the judgment). Orders entered by magistrate judges and not passed upon by the district court are not final and appealable. *See* 28 U.S.C. § 636 (magistrate judge authority); *Phillips v. Beierwaltes*, 466 F.3d 1217, 1222 (10th Cir. 2006). Additionally, the magistrate judge’s discovery order entered during the course of litigation is not appealable under the collateral order doctrine. *See SEC v. Merrill Scott & Assocs., Ltd.*, 600 F.3d 1262, 1270 (10th Cir. 2010). Finally, although Mr. Zou describes the magistrate judge’s order as an “injunction” to allow appellate review under 28 U.S.C. § 1292(a)(1), the magistrate judge’s order which imposes limits on discovery, prohibits further discovery requests absent leave of court, and prohibits further contempt/sanctions motions with respect to discovery, is not considered an injunction and is not appealable under § 1292(a)(1). *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).”).

Accordingly, we lack jurisdiction to consider this appeal.

We also deny all pending motions and objections.

APPEAL DISMISSED.

Entered for the Court

A handwritten signature in black ink, appearing to read 'Chris Wolpert', with a long horizontal flourish extending to the right.

CHRISTOPHER M. WOLPERT, Clerk