

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 6, 2023

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KIRK ARDELL SJODIN, JR.,

Defendant - Appellant.

No. 23-4030
(D.C. No. 4:22-CR-00105-RJS-PK-1)
(D. Utah)

ORDER

Before **HARTZ**, **BACHARACH**, and **EID**, Circuit Judges.

This matter is before the court on: (1) the jurisdictional show cause order it issued on March 13, 2023, challenging the finality of the district court order that *pro se* Appellant Kirk Ardell Sjodin, Jr. seeks to appeal from; and (2) Appellant'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.

Appellate courts like this one generally have jurisdiction to review only final decisions of district courts. 28 U.S.C. § 1291. "The final judgment rule prohibits appellate review in a criminal case until conviction and imposition of a sentence." *United States v. Walker*, 915 F.2d 1463, 1465 (10th Cir. 1990). "Because of the compelling interest in prompt trials," the Supreme Court has "interpreted the requirements of the collateral-order exception to the final judgment rule with the utmost strictness in criminal

cases.” *Flanagan v. United States*, 465 U.S. 259, 265-66 (1984). “To come within the collateral[-]order exception to the final judgment rule, a trial court order must (1) conclusively determine the disputed question, (2) resolve an important issue completely separate from the merits of the action, and (3) be effectively unreviewable on appeal from a final judgment.” *Id.* at 259 (citation and internal quotation marks omitted).

Here, Appellant seeks to appeal the district court’s February 27, 2023 oral ruling denying his motion to dismiss indictment for lack of jurisdiction. Appellant concedes that the ruling “is not ‘effectively unreviewable on appeal from final judgment’ so as to warrant review under the collateral order doctrine,” and asserts instead that it is “a final decision [that] constitutes imposition of a sentence.” Because Appellant has not yet been convicted or sentenced in the underlying criminal case, this court lacks jurisdiction to consider this appeal.

APPEAL DISMISSED.

Entered for the Court

A handwritten signature in black ink, appearing to read "Christopher M. Wolpert", with a long horizontal stroke extending to the right.

CHRISTOPHER M. WOLPERT, Clerk