

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

June 7, 2023

Christopher M. Wolpert
Clerk of Court

RICKEY WHITE,

Petitioner - Appellant,

v.

OKLAHOMA DEPARTMENT OF
CORRECTIONS; CARL BEAR, Deputy
Director,

Respondents - Appellees.

No. 23-6075
(D.C. No. 5:23-CV-00156-R)
(W.D. Okla.)

ORDER

Before **MATHESON, MORITZ**, and **CARSON**, Circuit Judges.

We consider *sua sponte* whether this court has jurisdiction to consider this appeal by Rickey White. On May 26, 2023, the assigned magistrate judge issued a Report and Recommendation, recommending that the district court dismiss Mr. White's 28 U.S.C. § 2241 petition without prejudice to refiling under 42 U.S.C. § 1983. Mr. White simultaneously filed an objection to the recommendation and a notice of appeal to this court.

Generally, this court's appellate jurisdiction is limited to final decisions of the district courts. 28 U.S.C. § 1291. A magistrate judge's recommendation is not directly appealable to this court. *See Phillips v. Beierwaltes*, 466 F.3d 1217, 1221 (10th Cir. 2006); *Haney v. Addison*, 175 F.3d 1217, 1219 (10th Cir. 1999). The district court must

first review any objections, adopt the recommendation, and enter a final order dismissing the case. The district court has not yet adopted the recommendation or entered a final order in this case. Accordingly, we lack jurisdiction to consider this appeal.

APPEAL DISMISSED.

Entered for the Court
CHRISTOPHER M. WOLPERT, Clerk

A handwritten signature in black ink, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro
Chief Deputy Clerk