

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 15, 2024

Christopher M. Wolpert  
Clerk of Court

BO ZOU,

Plaintiff - Appellant,

v.

LINDE ENGINEERING NORTH  
AMERICA, INC.,

Defendant - Appellee.

No. 24-5087  
(D.C. No. 4:19-CV-00554-JDR-JFJ)  
(N.D. Okla.)

ORDER

Before **PHILLIPS**, **MORITZ**, and **ROSSMAN**, Circuit Judges.

This matter is before us sua sponte to consider the court’s jurisdiction over this appeal. *See Hill v. Vanderbilt Cap. Advisors, LLC*, 702 F.3d 1220, 1223 (10th Cir. 2012) (this court has “an independent duty to examine [its] own jurisdiction”).

Appellant Bo Zou appeals from the district court’s order denying three of Mr. Zou’s discovery-related motions. [ECF No. 204].

This court entered an order directing Mr. Zou to show cause why appellate jurisdiction existed, given the ongoing district court proceedings. We have before us Mr. Zou’s response to that order. Upon careful consideration, we find that we lack jurisdiction for the reasons articulated below.

This court generally has jurisdiction to hear appeals from “final decisions” of district courts. 28 U.S.C. § 1291. A final decision is one that “ends the litigation on the merits and leaves nothing for the court to do but execute judgment.” *Cunningham v. Hamilton Cnty., Ohio*, 527 U.S. 198, 204 (1999) (internal quotations omitted). Interlocutory appeals are the exception, not the rule. *Myers v. Okla. Cnty. Bd. Of Cnty. Comm’rs*, 80 F.3d 421, 424 (10th Cir. 1996). “An order that . . . sets the stage for further trial court proceedings is not final.” *Hayes Fam. Tr. v. State Farm Fire & Cas. Co.*, 845 F.3d 997, 1003 (10th Cir. 2017).

The district court’s order denying Mr. Zou’s three discovery-related motions did not end this litigation on the merits. Indeed, this matter presently is being actively litigated in the district court; the order Mr. Zou seeks to appeal notes that trial is set for December 2024. In short, the order Mr. Zou seeks to appeal is one that “sets the stage for further trial court proceedings.” *Hayes Fam. Tr.*, 845 F.3d at 1003. It is neither a final order nor does it fit within any of the recognized exceptions to the finality doctrine. Accordingly, it is not presently appealable, and we are without jurisdiction to consider this appeal. Consequently, we dismiss this appeal and deny all pending motions as moot.

**APPEAL DISMISSED.**

Entered for the Court

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

CHRISTOPHER M. WOLPERT, Clerk