

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

July 22, 2025

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JALON TORRES, a/k/a Jay Torres,

Defendant - Appellant.

No. 25-1216
(D.C. No. 1:23-CR-00113-RMR-1)
(D. Colo.)

ORDER

Before **TYMKOVICH, EID**, 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 Jalon Torres, proceeding pro se, appeals from a district court order that denied his motions to dismiss the indictment. [ECF No. 271].

This court entered a jurisdictional show cause order directing Mr. Torres to demonstrate the existence of appellate jurisdiction. In our order, we noted that it did not appear that the district court proceeding had concluded given that Mr. Torres had not been sentenced and no final judgment had been entered. We have before us Mr. Torres’s response to that order. Upon careful consideration of Mr. Torres’s response and the applicable law, 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). “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 Mr. Torres proceeds pro se, we give his response to our show cause order a liberal construction. *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). Construing Mr. Torres’s response to our show cause order liberally, it appears that Mr. Torres contends that the collateral order doctrine—which provides a narrow exception to the final judgment rule—applies to provide us with jurisdiction here.

To fall within the collateral order doctrine, the district court's order must: (1) conclusively determine the disputed question, (2) resolve an important issue separate from the merits of the case, and (3) be effectively unreviewable once final judgment is entered. *United States v. Tucker*, 745 F.3d 1054, 1063 (10th Cir. 2014). In the criminal context, the Supreme Court has applied the collateral order doctrine to only four categories of interlocutory criminal appeals: those involving motions to reduce bail, motions to dismiss based on double jeopardy grounds, motions to assert immunity under the Speech or Debate Clause, and orders involuntarily medicating a defendant for competency purposes. *See id.*; *see also Sell v. United States*, 539 U.S. 166, 176-77 (2003). Outside of these specified categories, the collateral order doctrine may be invoked only where a criminal defendant asserts a “right not to be tried” that rests upon

“an explicit statutory or constitutional guarantee that trial will not occur.” *Tucker*, 745 F.3d at 1063.

In the district court, Mr. Torres’s motions to dismiss the indictment rested on his assertion that the prosecutors engaged in misconduct. He does not identify “an explicit statutory or constitutional guarantee that trial will not occur” related to that assertion and we are aware of none. Moreover, we considered a similar scenario in *United States v. Storey*, 2 F.3d 1037 (10th Cir. 1993).

In *Storey*, much like in this case, the appellants alleged prosecutorial misconduct and filed a motion to dismiss the indictment on that basis. The district court denied their motion to dismiss, and the appellants sought immediate appellate review. *Id.* at 1038-39. As Mr. Torres does here, the appellants in *Storey* contended that we had appellate jurisdiction under the collateral order doctrine. We rejected that contention, concluded that we did not have appellate jurisdiction, and dismissed the appeal. *Id.* at 1041-42.

In this case, we conclude that the collateral order doctrine does not apply to permit immediate appellate review of the district court’s order denying Mr. Torres’s motions to dismiss the indictment. We do not have jurisdiction in this matter.

APPEAL DISMISSED.

Entered for the Court

A handwritten signature in black ink, appearing to read 'Chris Wolpert', written over a horizontal line.

CHRISTOPHER M. WOLPERT, Clerk