

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

February 9, 2026

Christopher M. Wolpert
Clerk of Court

SHERRY ANN WILEY,

Plaintiff - Appellant,

v.

U.S. DEPARTMENT OF JUSTICE, Civil
Rights Division; KRISTEN M. CLARKE,
Director of Department of Justice Civil
Rights Division; KELLY LOEFFLER,
Director of U.S. Small Business
Administration; ANTONIO DOSS, Former
Director of U.S. Small Business
Administration; U.S. SMALL BUSINESS
ADMINISTRATION,

Defendants - Appellees.

No. 26-1012
(D.C. No. 1:25-CV-03528-LTB-RTG)
(D. Colo.)

ORDER

Before **MATHESON, CARSON**, 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 Sherry Ann Wiley seeks to appeal a magistrate judge's report and recommendation [ECF No. 83] that has not been passed upon by the district court. Upon the opening of this appeal, we entered an order that directed Ms. Wiley to demonstrate the existence of appellate jurisdiction. Ms. Wiley submitted a document entitled

“APPELLANT’S 30-page BRIEF” to this court. “APPELLANT’S 30-page BRIEF” does not respond to the jurisdictional issue the court identified in its show cause order. But even if it did, we would conclude that we lack jurisdiction over this appeal for the reasons set forth below.

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). A magistrate judge’s report and recommendation is not a final appealable order. *See* 28 U.S.C. § 636(b) (magistrate judge authority); *Phillips v. Beierwaltes*, 466 F.3d 1217, 1222 (10th Cir. 2006) (magistrate judge order was not a final appealable order until the district court acted on it).

This case remains ongoing in the district court and no final decision has been entered. Because the magistrate judge’s report and recommendation is not a final appealable order, we lack jurisdiction to consider this appeal.

APPEAL DISMISSED.

Entered for the Court

Per Curiam