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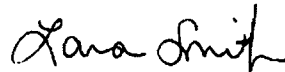
APPENDIX A

one that fully terminates all matters as to all parties and causes of action and leaves nothing for the district court to do but execute the judgment. *Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 712 (1996); *Harolds Stores, Inc. v. Dillard Dep't Stores, Inc.*, 82 F.3d 1533, 1541 (10th Cir. 1996). Piecemeal review of interlocutory district court orders is generally not allowed. *Southern Ute Indian Tribe v. Leavitt*, 564 F.3d 1198, 1207 (10th Cir. 2009). This court has held that absent extraordinary circumstances an order denying a civil litigant's motion for appointed counsel is not appropriate for interlocutory appeal. *Cotner v. Mason*, 657 F.2d 1390, 1392 (10th Cir. 1981).

Mr. Villecco is not appealing a final order. His civil case is still pending in the district court, and final judgment has not been entered. *See* Fed. R. Civ. P. 58. Moreover, this court's precedent forecloses his premature appeal. Just as this court said in *Cotner*, we see "no persuasive reason to depart in this case from the strong policy against 'piecemeal appellate disposition of what is, in practical consequence, but a single controversy.'" *Id.* at 1392 (citing *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 170 (1974)). Mr. Villecco's response to the court's show cause order does not persuade us otherwise.

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Lara Smith
Counsel to the Clerk

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APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

April 26, 2019

Elisabeth A. Shumaker
Clerk of Court

MICHAEL VILLECCO,

Plaintiff - Appellant,

v.

No. 19-8032

DANIEL W. STARK, et al.,

Defendants - Appellees,

ALEXANDER J. KLEIN, et al.,

Defendants.

ORDER

This matter is before the court following the opening of this appeal. Pro se plaintiff Michael Villecco appeals the district court's April 19, 2019 order that denied his motion for appointment of counsel. Because the order does not appear to be appealable at this time, we are considering summary disposition of this appeal. 10th Cir. R. 27.3(B).

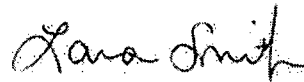
Appellate courts like this one generally have jurisdiction to review only **final decisions** of district courts. 28 U.S.C. § 1291; *see also Riley v. Kennedy*, 128 S. Ct. 1970, 1981 (2008) (describing final decisions as those that end the litigation on the merits and leave nothing for the court to do but execute the judgment). The district court has not entered an order disposing of all claims against all parties, nor has a judgment been entered to signal the end of the case. *See* Fed. R. Civ. P. 58.

Exceptions to the final judgment rule are few and narrow. Importantly, this court decided long ago an order denying appointment of counsel in civil cases (like this one) does not fall within any exception to the final judgment rule. “An order denying a motion for appointment of counsel in a civil case [] plainly falls within the large class of orders that are indeed reviewable on appeal after final judgment, and not within the much smaller class of those that are not. This court has consistently held that, absent extraordinary circumstances, orders denying appointment of counsel in civil cases are not immediately appealable as of right.” *Cotner v. Mason*, 657 F.2d 1390, 1392 (10th Cir. 1981) (internal quotation marks omitted). Thus, the order denying the plaintiff’s motion for appointed counsel does not appear eligible for interlocutory review. Consequently, it appears that this court lacks jurisdiction to consider the plaintiff’s interlocutory appeal, and the appeal must be dismissed.

Within 14 days of the date of this order, the plaintiff shall file a memorandum brief describing any legal basis for asserting appellate jurisdiction over the order being appealed. Alternatively, the plaintiff may elect not to file a memorandum brief, and the appeal will be dismissed without further notice for lack of prosecution. 10th Cir. R. 42.1.

Finally, proceedings in this appeal are suspended pending further written order of this court. *See id.* 27.3(C).

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read "Lara Smith", written over a horizontal line.

by: Lara Smith
Counsel to the Clerk

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APPENDIX C

UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING
2019 APR 19 PM 1:51
STEPHAN HARRIS, CLERK
CASPER

MICHAEL VILLECCO,

Plaintiff,

v.

Case No. 18-CV-100-SWS

DANIEL W. STARK, RYAN A. BOCK, and
JONATHAN R. MOUL;

Defendants.

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL

This matter comes before the Court on the Plaintiff's *Motion for Appointment of Counsel* (ECF No. 51).

"There is no constitutional right to appointed counsel in a civil case." *Durre v. Dempsey*, 869 F.2d 543, 547 (10th Cir. 1989). The United States Code, however, permits the Court to "request an attorney to represent" an indigent party in a civil case where appropriate. 28 U.S.C. § 1915(e)(1). Section 1915(e)(1) does not create any right to counsel, and it does not allow the Court to "appoint" counsel because it "merely empowers a court to *request* an attorney to represent a litigant proceeding *in forma pauperis*." *Mallard v. U.S. Dist. Ct. S. Dist. Iowa*, 490 U.S. 296, 301-02 (1989) (emphasis in original) (addressing former § 1915(d), which is the predecessor to current § 1915(e)(1)); *see also Amin v. Voigtsberger*, 560 F. App'x 780, 786 (10th Cir. 2014) (unpublished) ("Under 28 U.S.C. § 1915(e)(1), the district court lacked authority to

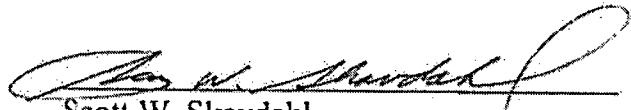
appoint an attorney.... Instead, the court could simply request an attorney to take the case.”).

Plaintiff was previously permitted to proceed *in forma pauperis* in this matter. The Tenth Circuit has “directed district courts to evaluate, in connection with a request to appoint counsel under § 1915, the merits of a [plaintiff’s] claims, the nature and complexity of the factual and legal issues, and the [plaintiff’s] ability to investigate the facts and present his claims.” *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004)

There are no unusual or exceptional circumstances that would warrant the appointment of counsel for Plaintiff in this case. *See Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995). Specifically, the Court finds that the instant matter is not so factually or legally complex as to demand a request for counsel. The totality of the circumstances here do not support requesting an attorney to represent Plaintiff.

IT IS THEREFORE ORDERED that the Plaintiff’s *Motion for Appointment of Counsel* (ECF No. 51) is **DENIED**.

DATED: April 19th, 2019.

A handwritten signature in black ink, appearing to read "Scott W. Skavdahl", written over a horizontal line.

Scott W. Skavdahl
United States District Judge