

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PATRICK BECK,

Defendant - Appellant.

No. 24-2142

(D.C. No. 1:22-MJ-01089-DHU-1)

(D. N.M.)

ORDER

Before BACHARACH, MORITZ, and EID, Circuit Judges.

This matter is before the court on Appellant Patrick Beck's pro se *Petition for Panel Rehearing and Rehearing En Banc*.

Upon consideration of the petition, we direct as follows.

The petition for panel rehearing is denied pursuant to Fed. R. App. P. 40.

The petition for rehearing *en banc* was transmitted to all of the judges of the court who are in regular active service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, the petition for rehearing *en banc* is denied pursuant to Fed. R. App. P. 40(c).

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk

(A)

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

November 25, 2024

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PATRICK BECK,

Defendant - Appellant.

No. 24-2142
(D.C. No. 1:22-MJ-01089-DHU-1)
(D. N.M.)

ORDER

Before **BACHARACH, MORITZ, and EID**, Circuit Judges.

Patrick Beck appeals the district court's September 5, 2024 order that granted the United States' Fed. R. Crim. P. 48(a) motion to dismiss and dismissed without prejudice a June 2022 criminal complaint against Mr. Beck. The basis for the United States' Rule 48(a) motion was due to the expiration of the deadline to bring an information or indictment against Mr. Beck. *See* 18 U.S.C. § 3161(b) (generally, information or indictment shall be filed within 30 days from arrest or service of summons).

The United States has filed a motion to dismiss this appeal arguing that this court lacks jurisdiction to review the order dismissing the criminal complaint without prejudice, and Mr. Beck has filed a counseled response conceding that this court lacks jurisdiction over the appeal.

Upon review of the parties' filings and the applicable case law, we conclude that we lack jurisdiction over this appeal. The district court's order is not final because Mr. Beck has not been convicted and sentenced, and the order is not reviewable under the collateral-order doctrine because it would be effectively reviewable on an appeal from a final judgment of conviction and sentence. *See Parr v. United States*, 351 U.S. 513, 518-20 (1956) (order dismissing an indictment without prejudice was not a final order or reviewable under the collateral-order doctrine); *United States v. Tsosie*, 966 F.2d 1357, 1361-62 (10th Cir. 1992) (dismissing appeal for lack of jurisdiction and holding that the dismissal of an indictment without prejudice under the Speedy Trial Act is not a final decision under 28 U.S.C. § 1291 or appealable under the collateral-order doctrine).

Accordingly, we grant the United States' motion to dismiss, and we dismiss this appeal for lack of jurisdiction.¹

APPEAL DISMISSED.

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk

¹ Because we lack jurisdiction over this appeal, we do not reach the United States' separate argument that the notice of appeal was not timely filed.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) CR. No. 22-MJ-1089 DHU
)
PATRICK BECK,)
)
Defendant.)

ORDER DISMISSING CRIMINAL COMPLAINT AND QUASHING WARRANT

THIS MATTER having come before the Court on the written motion of the United States to dismiss the criminal complaint, filed on February 7, 2023, and the Court being fully advised in the premises, finds the motion is well taken and should be granted.

IT IS THEREFORE ORDERED that the criminal complaint in this cause be and hereby is dismissed without prejudice.

IT IS FURTHER ORDERED that the Arrest Warrant issued in this matter is hereby quashed.



UNITED STATES DISTRICT JUDGE

Submitted by:
JON K. STANFORD
Assistant United States Attorney

(B)

**Additional material
from this filing is
available in the
Clerk's Office.**