[DO NOT PUBLISH]

In the United States Court of Appeals

For the Eleventh Circuit

No. 23-14154

Non-Argument Calendar

JAMES A. WILLIAMS,

Plaintiff-Appellant,

versus

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 0:23-cv-61124-RKA

Before ROSENBAUM, LUCK, AND BRASHER, Circuit Judges.

PER CURIAM:

Upon review of the record, the parties' responses to the jurisdictional question, and the government's motion to dismiss this appeal, we conclude that we lack jurisdiction over this appeal. James Williams appeals the district court's orders staying discovery pending the resolution of the government's motion to dismiss his amended complaint and dismissing his amended complaint with leave to amend by December 21, 2023. On December 21, 2023, the deadline to amend, Williams filed a second amended complaint and a notice of appeal that designated the stay and dismissal orders.

The order dismissing Williams's amended complaint is not final because the district court granted leave to further amend and did not dismiss the entire action. *See* 28 U.S.C. § 1291; *Acheron Cap., Ltd. v. Mukamal*, 22 F.4th 979, 986 (11th Cir. 2022); *Czeremcha v. Int'l Ass'n of Machinists & Aerospace Workers, AFLCIO*, 724 F.2d 1552, 1554 (11th Cir. 1984) ("[T]he dismissal [of the complaint] itself does not automatically terminate the action unless the court holds either that no amendment is possible or that the dismissal of the complaint also constitutes a dismissal of the action."). Indeed, Williams filed a second amended complaint that is currently pending before the district court. *See Garfield v. NDC Health Corp.*, 466 F.3d 1255, 1260-61 (11th Cir. 2006) (providing that an order dismissing a complaint with leave to amend becomes final when the time to amend

expires or the plaintiff waives the right to amend by appealing before the time expires); *Briehler v. City of Miami*, 926 F.2d 1001, 1002 (11th Cir. 1991) (stating that a plaintiff must choose between "pursuing a permissive right to amend a complaint after dismissal or . . . treating the order as final and filing for appeal" (quotation marks omitted)). Additionally, that order is not immediately appealable under the collateral order doctrine because it did not resolve an issue separate from the merits of the action and would not be effectively unreviewable on appeal from a final judgment. *See Plaintiff A v. Schair*, 744 F.3d 1247, 1252-53 (11th Cir. 2014) (explaining that an order is immediately appealable under the collateral order doctrine if it: (1) conclusively determines the disputed question; (2) resolves an important issue completely separate from and collateral to the merits of the action; and (3) would be effectively unreviewable on appeal from the final judgment).

The district court's order staying discovery pending the resolution of the government's motion to dismiss is not final because that order was limited in duration and there is no danger of denying justice by delaying review given that the stay ceased once the district court granted the motion. *See* 28 U.S.C. § 1291; *Am. Mfrs. Mut. Ins. Co. v. Stone*, 743 F.2d 1519, 1522-23 (11th Cir. 1984) (noting that a stay order is generally not final under § 1291); *Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 10 (1983) (holding that a stay order is final and appealable if it puts the appellant "effectively out of court"); *King v. Cessna Aircraft Co.*, 505 F.3d 1160, 1165-66 (11th Cir. 2007) (noting that, in determining the extent to which a plaintiff is "effectively out of court," we have held that a stay order

that is "immoderate and involves a protracted and indefinite period of delay" is final and appealable under § 1291); *CTI-Container Leasing Corp. v. Uiterwyk Corp.*, 685 F.2d 1284, 1287 (11th Cir. 1982) (noting that, in analyzing whether a stay is final, we balance the inconvenience and cost of piecemeal review against the danger of denying justice by delay). The stay order is also not appealable under the collateral order doctrine because an order staying discovery does not implicate a "substantial public interest or some particular value of a high order." *See Mohawk Indus. v. Carpenter*, 558 U.S. 100, 107 (2009). Moreover, neither order that Williams challenges was certified by the district court pursuant to Federal Rule of Civil Procedure 54(b). *See Supreme Fuels Trading FZE v. Sargeant*, 689 F.3d 1244, 1246 (11th Cir. 2012) (noting that an order that disposes of fewer than all claims against all parties to an action is not final or immediately appealable absent certification by the district court pursuant to Rule 54(b)).

Accordingly, the government's motion to dismiss is GRANTED and this appeal is DISMISSED for lack of jurisdiction. All pending motions are DENIED as moot.