

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

JESSIE LEWIS,
Plaintiff/Appellant,

v.

ARIZONA DEPARTMENT OF CORRECTIONS,
Defendant/Appellee.

No. 2 CA-CV 2020-0121
Filed December 10, 2020

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pinal County
No. S1100CV202000598
The Honorable Barbara A. Hazel, Judge Pro Tempore

APPEAL DISMISSED

Jessie Lewis, Florence
In Propria Persona

MEMORANDUM DECISION

Chief Judge Vásquez authored the decision of the Court, in which Presiding Judge Staring and Judge Brearcliffe concurred.

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V Á S Q U E Z, Chief Judge:

¶1 In this civil action involving alleged infringement of religious rights in state prison, Jessie Lewis appeals the trial court's denial of his request that the court provide him with a process server. Because we lack jurisdiction, we dismiss the appeal.

Factual and Procedural Background

¶2 In April 2020, Lewis sued the Arizona Department of Corrections (ADOC) and several ADOC employees,¹ claiming that the defendants had "failed to protect" his "religious beliefs" in several respects. In June, he requested that the trial court provide a process server, contending he had "no other way to personally serve[] each named defendant[]." The court denied the request because Lewis had failed to comply with A.R.S. § 12-302(H)(5)(a),² which provides that the court generally cannot waive or defer fees for service of process unless the applicant "establishe[s] by affidavit that the applicant has attempted without success to obtain voluntary acceptance of service of process." This appeal followed.

Jurisdiction

¶3 "This court may not address an issue or provide relief if it lacks jurisdiction to do so and we have an independent duty to ensure that we have jurisdiction before addressing the merits of any claim raised on appeal." *State v. Bejarano*, 219 Ariz. 518, ¶ 2 (App. 2008). "The Court of Appeals is a court of limited jurisdiction and has only jurisdiction specifically given to it by statute." *Campbell v. Arnold*, 121 Ariz. 370, 371 (1979). Although we have general appellate jurisdiction over all civil matters originating in superior court, *see* A.R.S. § 12-120.21(A)(1), only certain types of orders may be appealed, *see* A.R.S. § 12-2101(A) (enumerating types of appealable orders); *Musa v. Adrian*, 130 Ariz. 311, 313 (1981) (with respect to jurisdiction, § 12-2101 "provides when an appeal

¹As none of the defendants have been served or appeared before either the trial court or this court, we have included only one defendant in the caption. Upon further litigation, the defendants included in the action may change, which further supports our decision to list only one in this proceeding.

²In its order, the trial court mistakenly cited this provision as "A.R.S. § 12-301(H)(5)(a)."

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may be taken"). In most instances, only final judgments may be appealed; the exceptions to this general rule are limited. *See Catalina Foothills Unified Sch. Dist. No. 16 v. La Paloma Prop. Owners Ass'n*, 229 Ariz. 525, ¶ 6 (App. 2012). Review of interlocutory orders – those that “do[] not resolve a matter on the merits and may or may not be essential to the judgment,” *State v. Whelan*, 208 Ariz. 168, ¶ 22 (App. 2004) – is generally available only through our discretionary special-action jurisdiction, *see State ex rel. Ariz. Dep't of Econ. Sec. v. Kennedy*, 143 Ariz. 341, 343 (App. 1985).

¶4 The order challenged in this case is not a final judgment, and none of the limited exceptions provided in § 12-2101(A) apply. *Cf. Inzunza-Ortega v. Superior Court*, 192 Ariz. 558, ¶ 7 (App. 1998) (no appellate jurisdiction over order declining to defer or waive court fee for filing civil complaint). We therefore lack appellate jurisdiction. Lewis has not requested us to accept special-action jurisdiction, and we would decline to do so in any event. *See Robinson v. Kay*, 225 Ariz. 191, ¶ 7 (App. 2010) (special-action jurisdiction discretionary).

Disposition

¶5 For the foregoing reasons, we dismiss Lewis's appeal for lack of jurisdiction.