

UNITED STATES COURT OF APPEALS April 14, 2011
FOR THE TENTH CIRCUIT Elisabeth A. Shumaker
Clerk of Court

THOMAS W. QUINTIN,

Petitioner,

v.

MARCIA S. KRIEGER,

Respondent.

No. 11-701
(D.C. No. 1:11-CV-00831-BNB)

ORDER

Briefing on the merits **is tolled** pending further order of this court.

This matter is before the court on a petition for permission to appeal, filed by petitioner, Mr. Thomas William Quintin. Mr. Quintin seeks permission to appeal, pursuant to 28 U.S.C. § 1292 (b) and Fed. R. App. P. 5, from an order issued by a magistrate judge on April 6, 2011 in *Quintin v. Krieger*, No. 11-cv-00831-BNB.

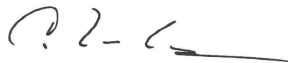
Under 28 U.S.C. § 1292(b), an otherwise non-final order may be appealed, in the circuit court's discretion, when the district court certifies "that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially

advance the ultimate termination of the litigation.” The April 6, 2011 order does not include the required language. In addition, the order was issued by a magistrate judge. Except for proceedings conducted by a magistrate judge upon designation by a district court judge and consent of the parties pursuant to 28 U.S.C. § 636(c), a court of appeals lacks jurisdiction to hear an appeal taken directly from a decision of a magistrate judge. *See Colorado Building & Construction Trades Council v. B.B. Andersen Construction Co.*, 879 F. 2d 809 (10th Cir. 1989); *Phillips v. Beierwaltes*, 466 F.3d 1217 (10th Cir. 2006).

In view of the above, petitioner shall show cause, in writing, **within 21 days** of the date of this order, why his petition for permission to appeal should not be denied.

Failure to respond to this order within the required 21-day period may result in dismissal of this matter for lack of prosecution, without further notice. *See* 10th Cir. R. 42.1.

Entered for the Court
ELISABETH SHUMAKER, Clerk of Court



by:

Christine Van Coney
Counsel to the Clerk