

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

NAOMI SANDRES

CIVIL ACTION

VERSUS

NO. 08-145-BAJ-SCR

STATE OF LOUISIANA DIVISION
OF ADMINISTRATION

RULINGS

This matter is before the court on pro se plaintiff's unopposed Motion for Final Order Concerning Transferring Case and Motion to Strike (doc. 181). On December 17, 2010, the Fifth Circuit Court of Appeals dismissed appeals by plaintiff, Naomi Sandres, noting that it lacked jurisdiction over the appeals because "[n]either the district court's order transferring the plaintiff's case from one district court judge to another, nor the order on motion to strike is a final or otherwise appealable order" (doc. 180). In support of her present motion, plaintiff states that, according to her understanding, the appeal was dismissed because the Court had not made a final decision regarding the order of transfer or the motion to strike (doc. 181). "[T]herefore, plaintiff is now requesting that a final decision is made in district court concerning this matter." (*Id.*).

Though the rulings of the Court regarding the order of transfer and the motion to strike are final in the sense that they have been fully decided, they are merely steps toward the final disposition of the merits of the action. For an order

to be a final, appealable order for purposes of 28 U.S.C. §1291: “(1) the order cannot be a provisional disposition of the issue; (2) the order must not merely be a step toward final disposition of the merits; and (3) the rights asserted must be threatened with irretrievable loss if review is postponed.” Fed.Proc. Law.Ed. § 12:458 (citing, *Applebaum v. State Farm Mut. Auto. Ins. Co.*, 109 F.R.D. 661 (M.D.Pa. 1986); Am.Jur.2d Federal Courts § 1915 (same). Because the ruling and order at issue are merely steps toward a final disposition of the merits of the action, they cannot be rendered final for purposes of 28 U.S.C. §1291. Insofar as plaintiff may be requesting the Court to issue a final decision on the merits, plaintiff has not set forth grounds for the issuance of a final judgment in this matter.

For all the above reasons, plaintiff’s unopposed Motion for Final Order Concerning Transferring Case and Motion to Strike (doc. 181) is hereby **DENIED.**

Baton Rouge, Louisiana, January 25, 2011.



BRIAN A. JACKSON
UNITED STATES DISTRICT JUDGE
MIDDLE DISTRICT OF LOUISIANA