

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 18, 2019

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

and

JACOB O. KINGSTON; ISAIAH ELDEN
KINGSTON; LEV ASLAN DERMEN,
a/k/a Levon Termendzhyan; RACHEL
ANN KINGSTON; SALLY LOUISE
KINGSTON,

Defendants - Appellees,

v.

DAVIS COUNTY COOPERATIVE;
FIDELITY FUNDING; WORLD
ENTERPRISES; PPMC, INC.;
STANDARD INDUSTRIES; ABM, INC.;
SECURITY FUNDING; MBSC, LLC.;
COP COAL DEVELOPMENT
COMPANY; LATTER DAY CHURCH
OF CHRIST; MITCHELL &
ASSOCIATES; APRIL MCKAY;
STANDARD INDUSTRIES, INC.; A-FAB
ENGINEERING,

Intervenors - Appellants.

No. 19-4018
(D.C. No. 2:18-CR-00365-JNP-BCW-1)
(D. Utah)

ORDER

Before **TYMKOVICH**, Chief Judge, **LUCERO** and **HOLMES**, Circuit Judges.

This matter comes before the court for a determination of jurisdiction and on Intervenor-Appellants' motion for stay pending appeal of the district court's discovery order.

Because this court's appellate jurisdiction is limited to review of final decisions, 28 U.S.C. § 1291, and "[d]iscovery orders entered during the course of litigation ordinarily are not final" for purposes of appeal, *see S.E.C. v. Merrill Scott & Assocs.*, 600 F.3d 1262, 1270 (10th Cir. 2010) (internal quotation marks omitted), we issued an order directing the parties to address whether the appeal falls within one of the limited exceptions to the finality requirement. Having considered the parties' responses to that order, we conclude that we do not have jurisdiction under either the collateral order doctrine, the pragmatic finality doctrine, or an extension of the *Perlman* doctrine, *Perlman v. United States*, 247 U.S. 7 (1918). *See Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100 (2009); *United States v. Copar Pumice Co.*, 714 F.3d 1197 (10th Cir. 2013); *In re Motor Fuel Temperature Sales Practices Litigation*, 641 F.3d 470 (10th Cir. 2011).

Accordingly, we dismiss the appeal for lack of a final, appealable order. The Motion to Stay Discovery Order is denied as moot.

Entered for the Court



ELISABETH A. SHUMAKER, Clerk