

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

ARNOLDO ROJERO,
Plaintiff-Appellant,

v.

UNITED STATES,
Defendant-Appellee.

2011-5111

Appeal from the United States Court of Federal Claims in case no. 10-CV-670, Senior Judge James F. Merow.

ON MOTION

O R D E R

Upon consideration of Arnaldo Rojero's motion for an injunction, we consider whether this appeal should be dismissed for lack of jurisdiction.

Rojero, who is currently serving a 264-month sentence at a Federal Correctional Institution in Texas, brought a complaint in the United States Court of Federal Claims, asserting a variety of grievances against prison officials, unlawful imprisonment, and a wrongful death claim

involving relatives. Although the Court of Federal Claims initially dismissed his complaint for lack of jurisdiction, it reconsidered the matter, and on June 27, 2011 issued an order transferring the matter pursuant to 28 U.S.C. § 1631 to the United States District Court for the Northern District of Texas. Rojero has appealed that ruling to this court and has also filed a motion seeking injunctive relief.

As this case involves an order transferring the case from the Court of Federal Claims to district court, this is not an appeal of a final judgment pursuant to 28 U.S.C. § 1291; nor does it meet the requirements of 28 U.S.C. § 1292(d)(4)(A), which allows an appeal to this court of a district court's order transferring a case to the Court of Federal Claims, but not vice versa.

Rojero's appeal also does not appear to meet the criteria for a collateral order appeal under *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541 (1949), namely, whether the order (1) conclusively determines the disputed question, (2) resolves an important issue completely separate from the merits of the action, and (3) is effectively unreviewable on appeal from a final judgment. See *Coopers & Lybrand v. Livesay*, 437 U.S. 463 (1978). The jurisdictional issue, whether the Court of Federal Claims or the district court might have jurisdiction over Rojero's complaint also could be effectively reviewed upon any appeal from a final judgment.

Accordingly,

IT IS ORDERED THAT:

(1) Rojero is directed to show cause, within 30 days of the date of filing of this order why this appeal should not be dismissed for lack of jurisdiction or alternatively if this appeal should be treated as a petition for a writ of mandamus, why a petition should be granted. The United States may also respond within that time.

(2) The briefing schedule is stayed.

FOR THE COURT

AUG 22 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Arnaldo Rojero
Claudia Burke, Esq.

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

AUG 22 2011

JAN HORBALY
CLERK