

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-5089

DANIEL L. DUMONDE,

Plaintiff-Appellant,

v.

UNITED STATES,

Defendant-Appellee.

Appeal from the United States Court of Federal Claims in 07-CV-601,
Senior Judge Loren A. Smith.

ON MOTION

Before MAYER, CLEVINGER, and RADER, Circuit Judges.

PER CURIAM.

ORDER

The United States moves to waive the requirements of Fed. Cir. R. 27(f) and to dismiss Daniel L. DuMonde's appeal as premature. DuMonde responds. Separately, DuMonde moves for leave to proceed in forma pauperis.

DuMonde filed a complaint in the United States Court of Federal Claims alleging false imprisonment. On May 23, 2009, DuMonde filed a document which the Court of Federal Claims treated as a notice of appeal to this court.

The court's jurisdiction over appeals from decisions of the Court of Federal Claims is governed by 28 U.S.C. § 1295(a)(3). Section 1295(a)(3) provides that the court has jurisdiction over "an appeal from a final decision of the United States Court of Federal Claims" (emphasis added). "A 'final decision' generally is one which ends the

litigation on the merits and leaves nothing for the court to do but execute the judgment.”
Catlin v. United States, 324 U.S. 229, 233 (1945); see also Ultra-Precision Mfg. Ltd. v. Ford Motor Co., 338 F.3d 1353,1356-57 (Fed. Cir. 2003) (“[a] district court’s judgment is final where it ‘ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.’” (citation omitted)).

The Court of Federal Claims had not entered or announced a judgment before DuMonde filed his appeal. Because the complaint was pending in the Court of Federal Claims, we must dismiss the appeal. The court notes that the Court of Federal Claims subsequently entered final judgment in this matter on July 8, 2009.

Accordingly,

IT IS ORDERED THAT:

- (1) The United States’ motion to dismiss is granted.
- (2) Each side shall bear its own costs.
- (3) DuMonde’s motion for leave to proceed in forma pauperis is denied as moot.

FOR THE COURT

SEP - 8 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Daniel L. Dumonde
Lauren S. Moore, Esq.

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SEP - 8 2009

ISSUED AS A MANDATE: _____

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

SEP - 8 2009

JAN HORBALY
CLERK