

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 25, 2007

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JAMES A. MCKEIGHAN,

Defendant-Appellant.

No. 07-3192
(D.C. No. 06-CR-20066-JWL)
(D. Kan.)

ORDER AND JUDGMENT*

Before **HENRY, O'BRIEN**, and **GORSUCH**, Circuit Judges.

Defendant James McKeighan seeks to appeal adverse rulings of the magistrate judge on his motions to reconsider the imposition of pretrial detention or, alternatively, to modify the conditions of his pretrial detention. By order entered August 28, 2007, we directed defendant to show cause why this appeal should not be dismissed for lack of appellate jurisdiction because the rulings he

* This panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

seeks to appeal are not final and appealable orders. *See* 18 U.S.C. § 3145(c) (providing that appeal from decision denying revocation or amendment of detention order is governed by 28 U.S.C. § 1291); *United States v. Harrison*, 396 F.3d 1280, 1281 (2d Cir. 2005) (per curiam) (dismissing appeal from magistrate judge’s detention order for lack of jurisdiction). Neither defendant nor his counsel has responded to the order to show cause.

We conclude that we lack jurisdiction over this appeal and it must be dismissed. Defendant’s counsel has filed a motion to withdraw. As a preliminary matter, we appoint him for these proceedings under the Criminal Justice Act, 18 U.S.C. § 3006A, and direct the Clerk to forward to him the necessary voucher materials. Because we are dismissing this appeal, however, counsel’s pending motion to withdraw is DENIED as moot. The appeal is DISMISSED for lack of jurisdiction.

Entered for the Court
PER CURIAM