

FILED
United States Court of Appeals
Tenth Circuit

PUBLISH

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 1, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

No. 25-4132

MARK ERIC BAYNE,

Defendant - Appellant.

Appeal from the United States District Court
for the District of Utah
(D.C. No. 2:24-CR-00240-JNP-1)

Scott Keith Wilson, Federal Public Defender (Bretta Pirie, Assistant Federal Public Defender, with him on the briefs), Office of the Federal Public Defender, Salt Lake City, Utah, for Defendant-Appellant.

Melissa Holyoak, First Assistant United States Attorney (Briggs Matheson, Assistant United States Attorney, with her on the brief), Office of the United States Attorney, District of Utah, Salt Lake City, Utah, for Plaintiff-Appellee.

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

TYMKOVICH, Circuit Judge.

Mark Bayne is in pretrial detention for charges related to threats he made online. Concerned by Bayne's history of mental health issues and limited participation in the pretrial proceedings, the government moved for a psychiatric

evaluation of his competence to stand trial under 18 U.S.C. § 4241. Section 4241(a) requires a district court to order a competency hearing whenever it has reasonable cause to believe the defendant may be incompetent. And, to aid its competency determination, § 4241(b) gives the court discretion to order a psychiatric or psychological examination of the defendant before the date of the hearing. *United States v. Landa-Arevalo*, 104 F.4th 1246, 1253 (10th Cir. 2024).

Bayne opposed the motion because he considers psychiatric examination an invasion of his privacy rights. But the district court found reasonable cause to question his competence and ordered an evaluation. Bayne now challenges that order through this interlocutory appeal. He argues the district court abused its discretion by determining that it was required to order an evaluation once it found reasonable cause to question his competency, thereby contradicting the statute's grant of discretion. And he claims the court further abused its discretion because its reasonable cause determination was not supported by the record.

We hold that we lack jurisdiction and therefore **DISMISS** Bayne's appeal. Criminal defendants must typically wait to bring an appeal until after the district court enters final judgment. This finality rule supports the efficient administration of cases for the benefit of both the defendant and the public and preserves the respect due to trial judges by limiting appellate interference with their prejudgment decisions. The collateral-order doctrine provides a narrow exception for orders that have "practical" finality. Because of the public interest in prompt trials, however, the doctrine is applied with "the utmost strictness in criminal cases." *Flanagan v. United*

States, 465 U.S. 259, 265 (1984). Among its requirements is the condition that the district court's order resolved an important issue separate from the merits.

Importance has a special meaning in this context and requires a balancing of the individual interest at stake against the societal interests advanced by adherence to the final judgment rule. When a defendant is already detained, his interest in avoiding the intrusion posed by a competency evaluation does not outweigh the public interest in the prompt administration of justice. The collateral-order doctrine therefore does not apply, and we dismiss for lack of jurisdiction. As a result, we do not address Bayne's merits challenges to the evaluation order.

I. Background

In July 2024, the United States charged Mark Bayne with multiple counts of making threats in interstate commerce in violation of 18 U.S.C. § 875(c) and stalking in violation of 18 U.S.C. § 2261A. Bayne allegedly sent over one hundred messages through a Department of Veterans Affairs communication system complaining that he was not getting benefits and health services to which he believed he was entitled. Some messages contained "vile, odious, and graphic language." R., Vol. 1 at 70.

This is not the first time Bayne has faced charges for making threats online. In 2010, he was indicted for three counts of violating § 875(c). But after Bayne underwent a psychiatric evaluation, the district court declared him incompetent to stand trial. The district court later found that Bayne's competence had been restored and set the case for trial in 2013. Bayne then communicated that he would assert an insanity defense, and, upon the government's request, underwent another psychiatric

evaluation. After reviewing the examination results, the court found Bayne not guilty by reason of insanity.

Bayne stayed in custody until 2015, when he was conditionally released with terms including psychiatric treatment and a regimen of psychotropic medication. He eventually violated these conditions, was re-arrested in 2018, and was committed to a federal medical center for treatment. He was again conditionally released in 2023, and, despite breaching his release terms, obtained a discharge in February 2024. A few months later, he allegedly committed the offenses involved in the current case.

After his July 2024 indictment, the court ordered Bayne detained because he would not agree to the pretrial release conditions. It set his trial for June 2025. In April 2025, Bayne moved to be tried *in absentia*. A week later, the government moved for a psychiatric evaluation to determine whether Bayne was competent to stand trial, under 18 U.S.C. § 4241. The district court held a status conference and hearing on the motions, but Bayne did not attend. In fact, Bayne had not attended a series of status conferences, often refusing to be transported from the detention center in Pahrump, Nevada to the courthouse in Utah. Bayne's counsel later explained that Bayne refused transfer because of chronic pain and the discomfort caused by long transport rides.

Sometime after a status conference on August 20, 2025, Bayne's attorneys persuaded him to attend a hearing scheduled for September 10. At the September hearing, Bayne stated he did not wish to attend his trial but represented that he was participating in his defense. His attorneys, notwithstanding earlier concerns, told the

court they believed Bayne was competent. The government argued there was not enough evidence to make a competency determination and urged the court to order an evaluation. The court withheld judgment so it could research “what the legal standard is regarding ordering a competency hearing.” R., Vol. 1 at 66.

On October 8, the court published an order finding reasonable cause to question Bayne’s competence. It also determined that an “evaluation is required unless the ‘reasonable cause’ standard is not met.” R., Vol. 1 at 72–73 (quoting *United States v. Ramirez*, 304 F.3d 1033, 1035 (10th Cir. 2002)). And since the court believed “a psychiatric evaluation would assist in evaluating Mr. Bayne’s competency,” R., Vol. 1 at 75, it granted the government’s motion.¹ Bayne challenges the evaluation order in this interlocutory appeal.

II. Discussion

We dismiss Bayne’s appeal for lack of jurisdiction. Our appellate jurisdiction is typically limited to “final decisions of the district courts.” 28 U.S.C. § 1291. As a result, a criminal defendant must usually wait until after “the district court enters final judgment” to raise an appeal. *United States v. Tucker*, 745 F.3d 1054, 1062 (10th Cir. 2014). The Supreme Court has articulated a limited carveout to this

¹ Read together, these two statements from the district court introduce some ambiguity about whether it was making a discretionary ruling. We need not decide that issue since we dismiss on jurisdictional grounds. Even so, § 4241(b)’s text is clear that the decision to order an evaluation is always discretionary. 18 U.S.C. § 4241(b) (“[T]he court *may* order that a psychiatric or psychological evaluation of the defendant be conducted” (emphasis added)); *see also Landa-Arevalo*, 104 F.4th at 1253.

requirement, known as the collateral-order doctrine. *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 546 (1949). The doctrine allows for immediate appeal of “a small class of orders not resolving the entire case because they have ‘practical’ finality.” *Dressen v. AstraZeneca AB*, 182 F.4th 1232, 1241 (10th Cir. 2026) (quoting *GEO Grp., Inc. v. Menocal*, 607 U.S. 438, 444 (2026)). “Such orders ‘are said to be too important to be denied review and too independent of the cause itself to justify waiting out the rest of the adjudication.’” *Id.* (quoting *Mohamed v. Jones*, 100 F.4th 1214, 1218 (10th Cir. 2024)).

To fall within the exception, a district court order must “[1] conclusively determine the disputed question, [2] resolve an important issue completely separate from the merits of the case, and [3] be effectively unreviewable on appeal from a final judgment.” *Tucker*, 745 F.3d at 1063 (alterations in original) (quoting *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 468 (1978)). The appellant “bears the burden of showing that its appeal satisfies all three of these conditions.” *Dressen*, 182 F.4th at 1241. Jurisdiction is defeated if any prong is not satisfied. *Geo Grp., Inc.*, 607 U.S. at 444.

The Supreme Court has described the doctrine as a narrow exception to § 1291’s finality requirement and admonished that rulemaking by the United States Judicial Conference, rather than court decision, is the “preferred means for determining whether and when prejudgment orders should be immediately appealable.” *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 113 (2009). Further, “[b]ecause of the compelling [public] interest in prompt trials,” and the right of

innocent defendants to challenge the charges against them, “the Court has interpreted the requirements of the collateral-order exception to the final judgment rule with the utmost strictness in criminal cases.” *Flanagan*, 465 U.S. at 265.

Reflecting that stringency, the Supreme Court has traditionally applied the doctrine “in only three categories of criminal cases: appeals from (1) motions to reduce bail; (2) motions to dismiss based on double jeopardy grounds; and (3) motions to assert immunity under the Speech or Debate Clause of the Constitution.” *Tucker*, 745 F.3d at 1063. And our court has “rarely permitted interlocutory criminal appeals that do not precisely fit one of these three traditional categories.” *Id.* at 1064.

Bayne asks us to extend the doctrine to cover a new class of orders: those directing already-detained criminal defendants to submit to psychiatric evaluation under 18 U.S.C. § 4241(b). We decline the invitation because such orders do not satisfy the doctrine’s second prong, specifically the requirement that the order resolve an important issue. In the collateral-order context, “importance” has a specialized meaning that requires us to decide “whether the interests that ‘would potentially go unprotected without immediate appellate review are significant relative to efficiency interests sought to be advanced by adherence to the final judgment rule.’” *Kell v. Benzon*, 925 F.3d 448, 455–56 (10th Cir. 2019) (quoting *Pierce v. Blaine*, 467 F.3d 362, 370–71 (3d Cir. 2006)). Here, they do not.

When a defendant is already detained, his interest in avoiding an unwanted competency evaluation does not outweigh the “societal interest in providing a speedy

trial.” *Flanagan*, 465 U.S. at 264 (quoting *Barker v. Wingo*, 407 U.S. 514, 519 (1972)). Under the circumstances, Bayne “will be in custody in one place or another.” *Pierce*, 467 F.3d at 370. And any added intrusion upon liberty that accompanies observation and evaluation by a psychiatric professional is outweighed by competing interests.² If Bayne chooses to participate in the evaluation by answering questions, he may do so. And even if he continues to view such questioning as an unwanted intrusion, he can refuse to answer. “[T]hen all that will happen to him is that he will be housed in a custodial setting and observed, just as he is now.” *Id.* at 371.

Bayne’s personal stake in avoiding this hypothetical intrusion on his liberty contrasts starkly with society’s “compelling interest in prompt trials.” *Flanagan*, 465 U.S. at 265. The public interest in speedy trials is multi-faceted and includes the prosecution’s interest in preserving evidence, maintaining the reliability of witness testimony, and possibly reopening its investigation if the defendant is acquitted. *Id.* It also embraces the community’s interest in “swiftly bringing the person responsible [for a crime] to justice,” and in mitigating the expenses of long pretrial detentions. *Id.* Further, speedy trials maximize the “prospects for [offender] rehabilitation” and

² We have no doubt that Bayne sincerely wishes to avoid what he perceives will be a forced intrusion into his psychiatric health. His willingness to delay his trial and extend his detention while his appeal is pending implies as much. But we make collateral-order doctrine determinations “by category, not case-specific circumstances.” *GEO Grp., Inc.*, 607 U.S. at 444. Our inquiry is therefore guided by objective criteria, rather than the subjective importance that an appellant assigns to the interest.

allow the impacted community to “begin to heal” from the wounds inflicted by the crime. *Id.* at 264–65.

Simply put, the balance of interests “tips in favor of rigorous application of the final judgment rule.” *Pierce*, 467 F.3d at 369. Bayne has not shown that his interest in avoiding a competency evaluation meets the collateral-order doctrine’s stringent standard for importance.

Bayne counters that our precedent establishes, or at least suggests, that we can hear his appeal. We disagree. As Bayne points out, we allow *undetained* criminal defendants to immediately appeal § 4241 evaluation orders that require their commitment to a mental health facility. *United States v. Deters*, 143 F.3d 577, 581 (10th Cir. 1998). But we do so because the resulting “*confinement* during the preliminary evaluation period” would violate a “constitutional liberty interest.” *Id.* The defendant in *Deters* had been released on pretrial bond when the court directed her to undergo a psychiatric evaluation. Rather than allow her to be evaluated on an outpatient basis, as she requested, the district court ordered her into the Attorney General’s custody for commitment. In permitting her appeal, we explained that the “issue is important because the defendant’s liberty will be curtailed for up to forty-five days.” *Id.* Indeed, the commitment order effectively revoked the defendant’s bail, thereby analogizing to a category of orders that the Supreme Court had found appealable. *See id.* But we emphasized that the “disputed question . . . is the decision to confine the defendant, not the underlying decision to conduct an

examination.” *Id.* at 582. As a result, *Deters* does not counsel towards allowing an appeal by an already-detained defendant.

Next, Bayne urges us to adopt the reasoning of *United States v. Visinaiz*, 96 F. App’x 594 (10th Cir. 2004), an unpublished case from our court that found jurisdiction over an appeal from an evaluation order brought by an already-detained defendant. But we are not bound by *Visinaiz*, nor are we persuaded by its reasoning on the collateral-order doctrine’s importance prong. *Visinaiz* determined an evaluation order raised an important issue based on the Supreme Court’s ruling in *Vitek v. Jones*, 445 U.S. 480 (1980). *Vitek* held that a post-conviction prison inmate must be afforded due process before prison administrators can involuntarily transfer him to a mental health facility for treatment. That was so because the “loss of liberty produced by an involuntary commitment [in a mental hospital] is more than a loss of freedom from confinement.” *Id.* at 492. The Court reasoned that the “stigma” of commitment could “engender adverse social consequences” for the inmate which, combined with “compelled treatment in the form of mandatory behavior modification programs,” triggered due process protection. *Id.* (citation modified).

But *Vitek* was not a collateral-order doctrine case and is therefore “not particularly instructive.” *Pierce*, 467 F.3d at 371. In determining that an inmate was entitled to certain due process protections before being transferred to a mental health facility, the Court did not address the question of “importance” as it relates to the efficiency interests advanced by the final judgment rule. Plus the circumstances in *Vitek* were drastically different from Bayne’s. “*Vitek* involved an open-ended civil

commitment and involuntary treatment unrelated to any ongoing court proceedings” rather than a psychiatric evaluation “for the limited purpose of determining competence.” *Id.* Thus, neither *Visinaiz* nor *Vitek* convinces us that we have jurisdiction over Bayne’s appeal.

Finally, Bayne argues that the Supreme Court opened a fourth category of appealable collateral orders in *Sell v. United States*, 539 U.S. 166 (2003), that covers his evaluation order. *Sell* held that a criminal defendant could immediately appeal a pretrial order forcing him to receive antipsychotic drugs. As to importance, the Court explained that its precedent established that “involuntary medical treatment raises questions of clear constitutional importance.” *Id.* at 176. It based that finding on cases involving forced surgery to retrieve evidence from an individual’s body, *Winston v. Lee*, 470 U.S. 753 (1985), a compelled heavy dose of antipsychotic medication during trial, *Riggins v. Nevada*, 504 U.S. 127 (1992), artificial feeding of a person in a vegetative state, *Cruzan v. Director, Mo. Dept. of Health*, 497 U.S. 261 (1990), and forced antipsychotic medication for a convicted prisoner, *Washington v. Harper*, 494 U.S. 210 (1990).

We do not think that *Sell* opened the door for Bayne’s appeal. Importantly, the district court’s order does not authorize any form of medical *treatment*—it directs only *evaluation*. And unlike *Sell* and the cases it relied on, we are not faced with the imposition of forced medication or severe physical intrusion into a person’s body.

In sum, Bayne has not convincingly argued that orders for already-detained defendants to undergo psychiatric evaluations to assess competence meet the

collateral-order doctrine's importance prong. Our court's cases do not hold otherwise, and neither does Supreme Court precedent. Given the Supreme Court's current stance on the collateral-order doctrine, "we must be cautious about applying it." *Dressen*, 182 F.4th at 1242. And since "there is no traditionally recognized basis for assuming jurisdiction" in this context, *Pierce*, 467 F.3d at 372, we will not extend *Sell* or *Deters* any further.

III. Conclusion

For the foregoing reasons, we dismiss the appeal for lack of jurisdiction. We grant the parties' motions for the court to take judicial notice of documents from Bayne's previous federal case.