

NOTE: This order is nonprecedential.

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

JERRY ALLEN CLARK,
Appellant,

v.

ERIC H. HOLDER, JR., ATTORNEY GENERAL,
Appellee.

2011-1505

Appeal from the United States District Court for the
Western District of Oklahoma in case no. 11-CV-0707,
Judge Joe Heaton.

ON MOTION

Before BRYSON, SCHALL, and PROST, *Circuit Judges.*
PER CURIAM.

O R D E R

Jerry Allen Clark and the Attorney General respond
to this court's August 4, 2011 show cause order.

Clark seeks to appeal from a magistrate's decision of
the United States District Court for the Western District
of Oklahoma recommending that Clark's petition for a

writ of habeas corpus be denied. Clark's appeal does not fall within this court's jurisdiction. 28 U.S.C. § 1295.

Pursuant to 28 U.S.C. § 1631, this court is authorized to transfer the case, but only to a court in which the appeal could have been brought at the time it was filed or noticed and only if transfer is "in the interest of justice[.]" Because the trial court has yet to issue final judgment, transfer to the United States Court of Appeals for the Tenth Circuit is inappropriate.

Accordingly,

IT IS ORDERED THAT:

- (1) The appeal is dismissed.
- (2) Each side shall bear its own costs.
- (3) All other pending motions are moot.

FOR THE COURT

NOV 23 2011

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Jerry Allen Clark
Nicholas Jabbour, Esq.

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

NOV 23 2011

JAN HORBALY
CLERK