

NOTE: This order is nonprecedential.

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

CARLOS A. ALFORD,
Plaintiff-Appellant,

v.

UNITED STATES,
Defendant-Appellee.

2011-5048

Appeal from the United States Court of Federal
Claims in 10-CV-525, Senior Judge John P. Wiese.

ON MOTION

Before *RADER, Chief Judge, NEWMAN and BRYSON, Circuit
Judges.*

PER CURIAM.

O R D E R

The United States moves to dismiss Carlos A. Alford's
appeal as premature.

On January 31, 2011, Alford filed a document which the Court of Federal Claims treated as a notice of appeal to this court. At that time, Alford's case was still pending before the trial 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).

The Court of Federal Claims had not entered or announced a judgment before Alford filed his appeal. Because the case was still 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 March 9, 2011, and thus he may file an appeal within 60 days of that date.

Accordingly,

IT IS ORDERED THAT:

- (1) The United States' motion to dismiss is granted.
- (2) Each side shall bear its own costs.

FOR THE COURT

APR 05 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

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U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

APR 05 2011

JAN HORBALY
CLERK

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cc: Carlos A. Alford
Joseph A. Pixley, Esq.

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