

United States Court of Appeals  
For the Eighth Circuit

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No. 22-1694

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United States of America

*Plaintiff - Appellee*

v.

Kevin Kerr

*Defendant - Appellant*

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Appeal from United States District Court  
for the Western District of Missouri - Springfield

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Submitted: December 6, 2022

Filed: December 9, 2022

[Unpublished]

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Before LOKEN, GRUENDER, and ERICKSON, Circuit Judges.

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PER CURIAM.

Kevin Kerr appeals after a magistrate judge<sup>1</sup> issued an order denying without prejudice his motion seeking discharge from civil commitment, or in the alternative, to return to a prior facility.

Upon careful review, we conclude this court lacks jurisdiction over the appeal, as Kerr did not timely seek review of the magistrate’s order by the district court, and thus there is no final, appealable order before this court. See 28 U.S.C. §§ 1291 (courts of appeals have jurisdiction over appeals from final decisions of district courts), 636(b)(1)(A) (allowing district courts to “designate a magistrate judge to hear and determine any pretrial matter pending before the court”; party may file written objections to magistrate’s recommendation within 14 days); Fed. R. Civ. P. 72(a) (party may not assign as error defect in magistrate judge’s order on nondispositive matter if not timely objected to); United States v. O’Laughlin, 31 F.4th 1042, 1044 (8th Cir. 2022) (concluding district court’s order of reference to magistrate judge citing § 636(b) and Local Rule 72.1 was not sufficient to convert magistrate’s order to final order for purposes of § 1291; dismissing appeal for lack of jurisdiction).

Accordingly, the appeal is dismissed for lack of jurisdiction.

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<sup>1</sup>The Honorable David P. Rush, United States Magistrate Judge for the Western District of Missouri.