

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-13373

Non-Argument Calendar

JEREMY SORENSON,
an individual, et al.,

Plaintiffs,

ADAM MCLEAN,
an individual,
JAMES DOYLE,
an individual, on behalf of themselves and all others
similarly situated,

Plaintiffs-Appellants,

versus

DELTA AIR LINES INC.,
a Delaware Corporation,

2

Opinion of the Court

23-13373

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:17-cv-00541-ELR

Before WILSON, GRANT, and BRASHER, Circuit Judges.

PER CURIAM:

Upon review of the record and the parties' responses to the jurisdictional questions, we conclude that we lack jurisdiction over this appeal.

Appellants Adam McLean and James Doyle, individually and on behalf of all others similarly situated, challenge the district court's September 8, 2023 judgment. On March 31, 2023, the district court issued an order granting in part defendant Delta Air Lines, Inc.'s ("Delta") motion for summary judgment. The March 31 order dismissed all claims asserted by plaintiffs Jeremy Sorenson, Randal Reep, McLean, and Doyle, leaving only plaintiff Randal Smith's discrimination claim outstanding.

On August 30, 2023, a stipulation of dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) that purported to dismiss all of Smith's claims with prejudice was filed in the district court. The parties do not dispute that the stipulation was filed and

23-13373

Opinion of the Court

3

signed on behalf of only Smith and Delta, as reflected on the document itself. On September 8, 2023, the clerk entered a judgment in favor of Delta on all claims, except Smith's discrimination claim, and stated that Sorenson, Reep, Doyle, and McLean were dismissed from the action.

Because the August 30, 2023 stipulation of dismissal was signed by fewer than all parties who had appeared in the litigation, the stipulation was ineffective, and Smith's discrimination claim remains pending before the district court. *See* Fed. R. Civ. P. 41(a)(1)(A)(ii) (providing that a plaintiff may voluntarily dismiss an action by filing "a stipulation of dismissal signed by all parties who have appeared"); *City of Jacksonville v. Jacksonville Hosp. Holdings, L.P.*, 82 F.4th 1031, 1034 (11th Cir. 2023) (holding that Rule 41(a)(1)(A)(ii)'s signature requirement applies to all parties, including those who were previously removed from the action). Additionally, the district court did not certify its September 8, 2023 judgment for immediate review pursuant to Federal Rule of Civil Procedure 54(b). *See Supreme Fuels Trading FZE v. Sargeant*, 689 F.3d 1244, 1246 (11th Cir. 2012) (providing that an order that disposes of fewer than all claims against all parties to an action is not final or immediately appealable absent certification by the district court pursuant to Rule 54(b)). Thus, we lack jurisdiction to consider this appeal. *See* 28 U.S.C. § 1291; *Acheron Cap., Ltd. v. Mukamal*, 22 F.4th 979, 986 (11th Cir. 2022) ("A final decision is typically one that ends the litigation on the merits and leaves nothing for the court to do but execute its judgment." (quotation marks omitted)).

Accordingly, this appeal is DISMISSED for lack of jurisdiction.¹

¹ We also asked the parties to address whether this appeal was duplicative of appellants' appeal in case no. 23-12698 and whether the August 30, 2023 stipulation of dismissal was valid, given that it only dismissed one of the Smith's claims against the defendant. Because we lack jurisdiction over the appeal because the stipulation was signed by fewer than all parties that appeared in the action, we express no opinion on the other issues raised in our jurisdictional question.