

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-10056
Non-Argument Calendar

BERKSHIRE HATHAWAY HOMES,

Plaintiff-Appellee,

versus

AARAZAE VINSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:25-cv-06781-JPB

Before ROSENBAUM, NEWSOM, and BRASHER, Circuit Judges.

PER CURIAM:

In 2025, Berkshire Hathaway Homes (“Berkshire”), filed a dispossessory action in a Georgia state court against Aarazae Vinson. Vinson, proceeding pro se, filed a notice of removal that

incorporated a motion for preliminary and permanent injunction and temporary restraining order “(TRO”) seeking to prevent Berkshire from enforcing a writ of possession against her.

On December 19, 2025, the district court entered an order denying Vinson’s motion. The court stated that it did not appear that it had jurisdiction over the action and directed the clerk to return the matter to a magistrate judge for frivolity review.

The same day, the magistrate judge filed a report and recommendation (“R&R”) recommending that the action be remanded to the Magistrate Court of Henry County, Georgia. To date, the district court has not acted on the R&R.

On January 2, 2026, Vinson filed a notice of appeal designating the “order recommending remand to the Henry County Magistrate Court,” attaching the December 19 order but not the R&R.

Berkshire has filed a motion to dismiss the appeal for lack of jurisdiction arguing that remand orders for lack of subject matter jurisdiction are unreviewable.

Vinson has not filed a response.

We conclude that we do not have jurisdiction to review the district court’s December 19 order.¹ That order is not appealable

¹ To the extent Vinson may have attempted to challenge the R&R, it is not a final decision or otherwise appealable. See 28 U.S.C. § 1291; *Perez Priego v. Alachua Cnty. Clerk of Ct.*, 148 F.3d 1272, 1273 (11th Cir. 1998) (explaining that a magistrate judge’s report and recommendation that has not been adopted by the district court is not final and immediately appealable).

under 28 U.S.C. § 1291 because it did not end the litigation on the merits or resolve any of Vinson’s claims. *See* 28 U.S.C. § 1291 (providing jurisdiction over “final decisions of the district courts”); *Acheron Cap., Ltd. v. Mukamal*, 22 F.4th 979, 986 (11th Cir. 2022) (explaining that a final decision ends the litigation on the merits and leaves nothing for the court to do but execute its judgment). The order is also not immediately appealable under the collateral order doctrine because Vinson’s motion did not present an issue separate from the merits; she sought to prevent Berkshire from evicting her, the same type of relief requested in her notice of removal and tied to the merits of this action. *See Acheron*, 22 F.4th at 989 (explaining that the collateral order doctrine allows for appeal of a non-final order if it conclusively resolves an important issue completely separate from the merits of an action).

The December 19 order also is not appealable as one that refused an injunction, rather than denying a TRO, under our precedent governing the distinctions between the two. *See* 28 U.S.C. § 1292(a)(1) (providing jurisdiction to review orders refusing injunctions); *McDougald v. Jensen*, 786 F.2d 1465, 1472 (explaining that a TRO is not ordinarily appealable). First, the preliminary injunction label on Vinson’s motion and the December 19 order’s use of that label are not dispositive for purposes of appealability. *See McDougald*, 786 F.2d at 1472 (explaining that an order labeled as one denying a TRO or one denying a preliminary injunction is not dis-

positive for purposes of the order’s appealability). Second, Berkshire was not afforded the notice or hearing required for a preliminary injunction. *See* Fed. R. Civ. P. 65(b)(1), (a)(1) (explaining that a court “may issue a [TRO] without . . . notice to the adverse party” if certain conditions are met, but it “may issue a preliminary injunction only on notice to the adverse party”); *McDonald’s Corp. v. Robertson*, 147 F.3d 1301, 1311 (11th Cir. 1998) (explaining that Rule 65’s notice requirement for preliminary injunctions serves to ensure that the non-moving party has “fair opportunity to oppose the [motion] and to prepare for such opposition” (quotation marks omitted)). Finally, Vinson sought to preserve, not change, the status quo, as she requested the court halt the eviction proceedings, and there is no indication that the denial of her motion resulted in serious, irreparable harm. *See AT&T Broadband v. Tech Commc’ns, Inc.*, 381 F.3d 1309, 1314 (11th Cir. 2004) (holding that a TRO may be appealable under § 1292(a)(1) if, inter alia, “the notice and hearing sought or afforded suggest that the relief sought was a preliminary injunction” and “the requested relief seeks to change the status quo”); *Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995) (holding that the denial of a TRO may be immediately appealable if it “might have a serious, perhaps irreparable, consequence”).

Accordingly, Berkshire’s motion to dismiss is GRANTED, and this appeal is DISMISSED for lack of jurisdiction.