IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 22-11694-G

SECURITIES & EXCHANGE COMMISSION,

Plaintiff,

versus

COMPLETE BUSINESS SOLUTIONS GROUP, INC.,
d.b.a. Par Funding. et al.,

Defendants,

JOSEPH COLE BARLETA,
a.k.a. Joe Cole,

Defendant-Appellant,

versus

RYAN K. STUMPHAUZER,
as Receiver for Complete Business
Solutions Group., Inc. d.b.a Par Funding
and Other Receivership Entities,

Interested Party-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

Before: WILSON, JORDAN, and LAGOA, Circuit Judges.

BY THE COURT:

Upon our review of the record and the responses to the jurisdictional question, this appeal is DISMISSED for lack of jurisdiction. Joseph Cole Barleta appeals from the district court's April

29, 2022 order granting receiver Ryan Stumphauzer's motion to compel, which directed Barleta to produce certain documents within his possession or control over his objection that doing so would violate his Fifth Amendment privilege against self-incrimination.

However, the April 29, 2022 order was not a final decision, *i.e.,* it did not end the litigation on the merits and leave nothing for the district court to do but execute the judgment. *See* 28 U.S.C. § 1291; *CSX Transp., Inc. v. City of Garden City*, 235 F.3d 1325, 1327 (11th Cir. 2000). And despite Barleta's arguments to the contrary, the April 29 order is not immediately appealable by statute or jurisprudential exception. *See CSX Transp.*, 235 F.3d at 1327.

The April 29 order is not immediately appealable under 28 U.S.C. § 1292(a)(2) because it "was not an order appointing a receiver, refusing to wind up a receivership, or refusing to take steps to accomplish the purposes of the receivership," *i.e.,* "the order is not of the kind mentioned in section 1292(a)(2)." *See Acheron Capital, Ltd. v. Mukamal*, 22 F.4th 979, 992-94 (11th Cir. 2022); 28 U.S.C. § 1292(a)(2).

The April 29 order also is not immediately appealable under the collateral order doctrine. *See Cohen v. Benefit Indus. Loan Corp.*, 337 U.S. 541, 546 (1949). To be appealable under this doctrine, the order must have resolved an important issue completely separate from the merits of the action. *See Plaintiff A v. Schair*, 744 F.3d 1247, 1252-53 (11th Cir. 2014). However, the April 29 order does not fall within any category of orders we have noted to satisfy this requirement. *See Mohawk Indus. v. Carpenter*, 558 U.S. 100, 107 (2009); *see also Plaintiff A*, 744 F.3d at 1254. And to the extent Barleta argues that we should extend the collateral order doctrine to apply to orders such as the April 29 order, we decline to do so here. *See Mohawk Indus.*, 558 U.S. at 107; *cf. Plaintiff A*, 744 F.3d at 1255 (explaining that "when a person commits a criminal act that also gives rise to a civil action, that person must necessarily decide whether to invoke the right against

self-incrimination in the civil action in order to avoid consequences in a criminal case," and that "[w]hether the individual defendant chooses to invoke that right, and the consequences of doing so, are not important issues that involve a substantial public interest" (quotation marks omitted)).

The April 29 order also is not immediately appealable under the doctrine of marginal finality. *See Gillespie v. U.S. Steel Corp.*, 379 U.S. 148, 150-51, 153-54 (1964). The Supreme Court has confined the doctrine "to the unique facts of *Gillespie*," which "concerned an unsettled issue of national significance . . . —whether the Jones Act provided the exclusive remedy for the alleged wrongful death of a deceased seaman." *See Acheron*, 22 F.4th at 992 (quotation marks and citation omitted). Those unique facts are not present in this case and, thus, we lack jurisdiction under the doctrine of marginal finality. *See id.*

Ultimately, the April 29 order is an interlocutory order compelling discovery, which is not appealable. *Robinson v. Tanner*, 798 F.2d 1378, 1380 (11th Cir. 1986). Barleta cannot seek review of the order at this stage.