

A motorist sued a police officer in a federal district court for using excessive force during an arrest in violation of a federal statute. The officer moved for summary judgment on the ground that he was immune from suit. The district court entered an order denying the motion and ruling that the officer was not immune from suit as a matter of law. The officer immediately filed a notice of appeal.

Does the appellate court have jurisdiction to hear the appeal?

- A. No, because the appeal was not certified by the district court.
- B. No, because the district court's decision on immunity is final.
- C. Yes, because a contrary decision on appeal could terminate the action.
- D. Yes, because an order denying immunity to a government official is an appealable collateral order.

Explanation:

Examples of collateral orders

District court orders:

- denying state 11th Amendment immunity
- denying government official/employee immunity
- vacating attachment of vessel
- refusing to require security bond pursuant to state law
- remanding action to state court based on abstention

A **final judgment** generally must be entered before an **appellate court can acquire jurisdiction** over a case. A final judgment is a decision that fully resolves a dispute on the merits and leaves nothing for the court to do but enforce the judgment. An order denying summary judgment (as seen here) is *not* final because it merely determines that there is some dispute of material fact—it does not fully resolve the underlying claim. As a result, these orders are typically not appealable.

However, the **collateral-order doctrine** provides a narrow exception to the [final-judgment rule](#). Under this doctrine, an interlocutory order will be characterized as **final and immediately appealable** if three elements are met:

- The order **conclusively resolves an important issue** (the officer's [immunity](#)).
- That issue is **separate from the merits** of the underlying claim (whether the officer used excessive force).
- The order **cannot be effectively reviewed** on appeal **from a final judgment** (the officer's claim of immunity will be ineffective once the case has gone to trial).

Therefore, the court's order denying the police officer immunity constitutes a collateral order over which the appellate court has jurisdiction to hear an immediate appeal.

(Choice A) An interlocutory order can be immediately appealed in limited circumstances—including when there is a statutory right to appeal (eg, order granting, modifying, or denying a preliminary injunction), the district court certifies the appeal, or the collateral-order doctrine applies (as seen here).

(Choice B) The district court's decision on immunity is not final because it can be immediately challenged on appeal under the collateral-order doctrine.

(Choice C) The fact that a contrary appellate decision could terminate the action does not provide a basis for an immediate appeal. Instead, the collateral-order doctrine authorizes the appeal at this stage.

Educational objective:

The collateral-order doctrine allows an immediate appeal from an interlocutory order that (1) conclusively resolves an important issue that (2) is separate from the merits of the claim and (3) cannot be effectively reviewed on appeal from a final judgment—eg, an order denying a claim of governmental immunity.

References

- 28 U.S.C. § 1291 (final-judgment rule).
- *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545–46 (1949) (establishing the collateral-order doctrine).
- *Plumhoff v. Rickard*, 572 U.S. 765, 771–72 (2014) (explaining that an order denying government immunity is immediately appealable under the collateral-order doctrine).