

UNITED STATES COURT OF APPEALS

NOV 3 2000

TENTH CIRCUIT

PATRICK FISHER
Clerk

RICHARD JACKSON, a/k/a Richard E.
Jackson,

Petitioner-Appellant,

v.

JOE WILLIAMS, Warden, Lea County
Correctional Facility; GARY JOHNSON,
Governor, State of New Mexico;
ROBERT PERRY, Secretary of
Corrections; NEW MEXICO
DEPARTMENT OF CORRECTIONS,
State of New Mexico; WACKENHUT
CORRECTIONS CORPORATION, a
Florida Corporation; LEA COUNTY,
NEW MEXICO; ATTORNEY GENERAL
FOR THE STATE OF NEW MEXICO,

Respondents-Appellees.

No. 00-2267
(D. N.M.)
(D.Ct. No. CIV-00-897-BB/LFG)

ORDER AND JUDGMENT*

Before **BRORBY, KELLY, and MURPHY**, Circuit Judges.

* This order and judgment is not binding precedent except under the doctrines of law of the case, *res judicata* and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Appellant Richard Jackson, a state inmate appearing *pro se*, appeals the district court's decision denying his habeas corpus petition filed under 28 U.S.C. § 2241 for failure to exhaust existing state remedies. The facts and issues in this case are identical to those in *Rael v. Williams*, 223 F.3d 1153 (10th Cir. 2000), *petition for cert. filed*, (U.S. Oct. 10, 2000) (No. 00-6587). Thus, our decision is governed by this court's analysis and conclusions therein. Accordingly, we grant Mr. Jackson a certificate of appealability and **AFFIRM** the judgment of the district court, as modified, to dismiss the claim cognizable under 28 U.S.C. § 2241 with prejudice; all other claims contained in Mr. Jackson's petition are dismissed without prejudice.

Entered by the Court:

WADE BRORBY
United States Circuit Judge