

August 24, 2010

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

BIGLER JOBE STOUFFER, II,

Petitioner - Appellant,

v.

JOHN WHETSEL, Sheriff; WES
LANE, District Attorney Oklahoma
County; JERRY BASS, Honorable
State District Judge Oklahoma County,

Respondents - Appellees.

No. 10-6018

(W.D. Oklahoma)

(D.C. No. 02-cv-01659-C)

**ORDER DENYING
CERTIFICATE OF APPEALABILITY***

Before **KELLY, McKAY**, and **LUCERO**, Circuit Judges.

On September 4, 2009, in Case No. 03-6093, we found that fees deducted from Appellant's prison account were improperly applied to his appeal in that case. We remanded for the district court to "review its case records to determine whether the payments attributable to the instant appeal should have been applied in another case or appeal." (Order at 2.) The district court followed our

* This order is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

direction. It determined that Appellant's partial payments should be applied to other cases in which Appellant owes fees, Case Nos. 94-cv-1395, 04-cv-14, and 09-cv-320.

Appellant seeks a certificate of appealability to challenge that order. However, it cannot reasonably be debated that the trial court's order is correct. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). We therefore **DENY** a certificate of appealability and **DISMISS** this appeal. We do, however, **GRANT** Appellant's motion to proceed *in forma pauperis*.

ENTERED FOR THE COURT

Monroe G. McKay
Circuit Judge