

Note: District Court order of dismissal not available electronically.

UNITED STATES COURT OF APPEALS

Filed 3/25/96

TENTH CIRCUIT

JASON AARON SIMMONS,)
)
 Plaintiff-Appellant,)
)
 v.)
)
 PHILIP BEINVENU, STAN KIMBLE,)
 CLEVELAND HOLMES, LEROY L. YOWELL,)
 JUDGE ARREN, JUDGE NIESCHBURG,)
 JUDGE STEWART, MICHAEL GUVARA,)
 WILLIAM SYLVESTER, DENNIS HOUNON,)
 IVAN DEW,)
)
 Defendants-Appellees.)

No. 95-1440
(D.C. No. 95-S-1818)
(D. Colorado)

ORDER AND JUDGMENT*

Before **BRORBY, EBEL** and **HENRY**, Circuit Judges.

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); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

Mr. Simmons, a state inmate and a pro se litigator, commenced this action against three state

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 the court's General Order filed November 29, 1993. 10th Cir. 36.3.

court judges, the district attorney, a sheriff in his capacity as a witness, his two court-appointed attorneys, his court-appointed investigator, a department of corrections investigator, again in his capacity as a witness, and two probation officers. The district court, in a thorough thirteen-page “Order of Dismissal,” dismissed the complaint for a variety of reasons including the fact the civil rights claims asserted were frivolous and the claims construed as habeas corpus claims were unexhausted.

Mr. Simmons appeals the Order of Dismissal, pro se, asserting, inter alia, claims of double jeopardy and malicious prosecution. Mr. Simmons does not tell us why the actions of the district court were legally or factually incorrect; rather he asserts the Bill of Rights is not frivolous and argues the district court did not actually apply any law. He charges the district court “totally ignored the constitution” and “totally ignored each and every fact.” He asks this court “to order Default Judgement against the Plaintiffs and order them to pay me the money that I’m due.” He concludes by informing us “I am pro se and mentally disabled and have been since 1991.”

We have reviewed the record on appeal and carefully considered Mr. Simmons’ brief and arguments. He has failed to convince us the district court erred in dismissing his complaint.

The judgment of the district court is **AFFIRMED** for substantially the same reasons set forth in the Order of Dismissal entered by the district court, a copy thereof being attached.

Entered for the Court:

WADE BRORBY

United States Circuit Judge