

UNITED STATES COURT OF APPEALS

Filed 8/29/96

TENTH CIRCUIT

JEROLD G. CAUTHON,

Plaintiff - Appellant,

v.

CHARLES (NMI) SIMMONS,
MICHAEL A. NELSON,

Defendants - Appellees.

No. 95-3052

D. KAN.

(D.C. No. 95-3023-DES)

ORDER AND JUDGMENT*

Before **PORFILIO, BARRETT, and EBEL**, Circuit Judges.

On January 4, 1996, this panel entered an order and judgment affirming the district court's denial of Mr. Cauthon's request for mandamus relief. See Cauthon v. Simmons, No. 95-3022, (10th Cir. Jan. 4, 1996). This appeal is a companion appeal to that case.**

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

The sole issue presented is whether the district court properly denied Mr. Cauthon's request to proceed on appeal in forma pauperis. We hold that the court was correct, and affirm on that basis. Mr. Cauthon's request to proceed on appeal in forma pauperis is granted^{***}. The district court is AFFIRMED.

ENTERED FOR THE COURT

David M. Ebel
Circuit Judge

^{***} Because this matter and case number 95-3022 were filed well before the enactment of the Prison Litigation Reform Act, we do not reach the question whether Mr. Cauthon is obligated to pay the filing fee in this appeal.