

**UNITED STATES COURT OF APPEALS  
Tenth Circuit  
Byron White United States Courthouse  
1823 Stout Street  
Denver, Colorado 80294  
(303) 844-3157**

**Patrick Fisher  
Clerk**

**Elisabeth A. Shumaker  
Chief Deputy Clerk**

4/28/06

**TO:** ALL RECIPIENTS OF THE CAPTIONED ORDER AND JUDGMENT

**RE:** 95-5124, Brown v. Tulsa County Board of Commissioners  
April 18, 1996 by Judge Seymour

Please be advised of the following correction to the captioned decision:

Page 3, item 2, the word "if" has been corrected to the word "is". Please make this correction to your copy.

Very truly yours,

Patrick Fisher,  
Clerk

By:

Barbara Schermerhorn  
Deputy Clerk

**UNITED STATES COURT OF APPEALS**

**Filed 4/18/96**

**TENTH CIRCUIT**

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JERRY LEWIS BROWN,

Plaintiff-Appellant,

v.

TULSA COUNTY BOARD OF  
COMMISSIONERS, TULSA COUNTY,  
and THE CITY OF TULSA,

Defendant-Appellees.

No. 95-5124  
(D.C. No. 94-C-1105-B)  
(N.D. Okla.)

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**ORDER AND JUDGMENT\***

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Before **SEYMOUR**, Chief Judge, **McKAY** and **LUCERO**, Circuit Judges.

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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.

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 10th Cir. R. 36.3.

Mr. Jerry Lewis Brown filed this pro se action under 42 U.S.C. § 1983, alleging the Tulsa County Board of County Commissioners, Tulsa County, and the City of Tulsa deprived him of his statutory right to a competency hearing prior to the initiation of criminal procedures against him. See Okla. Stat. Tit. 22, §§ 1175 et seq. The district court granted the City's motion to dismiss because Mr. Brown failed to respond, and dismissed the action against the Board of County Commissioners and Tulsa County for lack of service. Mr. Browns appeals.

This matter is before the court on appellant's motion for leave to proceed on appeal without prepayment of costs or fees.

In order to succeed on his motion, an appellant must show both:

1. A financial inability to pay the required filing fees and
2. The existence of a nonfrivolous argument on the law and facts in support of the issues raised on appeal.

See 28 U.S.C. § 1915(a); Coppedge v. United States, 369 U.S. 438 (1962); Ragan v. Cox, 305 F.2d 58 (10th Cir. 1962).

We conclude that appellant can make no rational argument on the law or facts in support of the issues raised on appeal, as required by paragraph two above. therefore, the motion for leave to proceed on appeal without prepayment of costs or fees is denied.

It is further ordered as follows:

1. The filing fee is waived;

2. The judgment of the district court is AFFIRMED; and
3. The mandate shall issue forthwith.

ENTERED FOR THE COURT

Stephanie K. Seymour  
Chief Judge