

UNITED STATES COURT OF APPEALS

**Filed 3/19/96**

TENTH CIRCUIT

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OSCAR DAVIS, Jr.,	)	
	)	
Plaintiff-Appellant,	)	
	)	
vs.	)	No. 95-6264
	)	(D.C. No. CIV-94-2139-R)
LARRY A. FIELDS; RON	)	(W.D. Okla.)
CHAMPION,	)	
	)	
Defendants-Appellees.	)	

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ORDER AND JUDGMENT\*

Before TACHA, BALDOCK, and BRISCOE, Circuit Judges.\*\*

Plaintiff Oscar Davis Jr., appearing pro se, appeals the district court’s Judgment granting Defendants’ motion for summary judgment.<sup>1</sup> Plaintiff filed a 42 U.S.C. § 1983 civil rights action alleging that Defendants violated his rights to due process and equal

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 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 therefore is ordered submitted without oral argument.

<sup>1</sup> We grant Plaintiff’s motion to proceed on appeal in forma pauperis.

protection by removing him from a lower security prison facility to a higher one. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The district court referred Plaintiff's complaint to the magistrate judge for recommendation. Plaintiff was given an opportunity to respond to the motion for summary judgment, and the court ordered a Martinez report. After review of Plaintiff's complaint, the Martinez report, and Defendants' motion for summary judgment, the magistrate recommended that the district court grant Defendants' motion for summary judgment, or that the court dismiss Plaintiff's complaint as frivolous. The district court adopted the recommendation after a de novo review, granted Defendants' motion for summary judgment, and dismissed Plaintiff's complaint as frivolous.

On appeal Plaintiff argues that the district court erred by granting Defendants' motion for summary judgment and dismissing his complaint because Defendants violated his due process and equal protection rights. We have reviewed the parties' briefs and the entire record before us, and affirm substantially for the reasons set forth in the magistrate's recommendation.

AFFIRMED

Entered for the Court,

Bobby R. Baldock  
Circuit Judge