

96-1149 Fuller v. Zavaras

Attachment not available electronically.

UNITED STATES COURT OF APPEALS

Filed 12/19/96

TENTH CIRCUIT

STEVEN M. TULLER, a/k/a STEVEN
MICHAEL TULLER,

Plaintiff-Appellant,

v.

ARISTEDES W. ZAVARAS, DONICE NEAL,
GARY WATKINS, LORRAINE DIAZ,
EVELYN FISH, ROBERT D. MILLER, Dr.,

Defendants-Appellees.

No. 96-1149
(D.C. No. 94-N-1304)
(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 case is therefore

* This order and judgment is not binding precedent except under the doctrines of law of the case, *res judicata* and collateral estoppel.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.

ordered submitted without oral argument.

Mr. Tuller is a state inmate and pro se litigant. The district court granted an adverse summary judgment and allowed Mr. Tuller to appeal *in forma pauperis*. We affirm the summary judgment granted by the district court.¹

Mr. Tuller commenced this civil rights action against several prison officials. Defendants moved for summary judgment with supporting evidentiary materials. In a ten-page recommendation, the magistrate judge recommended the motion be granted. The district court reviewed the recommendation de novo and granted the motion. Attached hereto is a copy of the recommendation and the order.

Mr. Tuller appeals the order of the trial court and asserts: (1) He is "locked up in administrative segregation and has no ability to investigate the facts"; and (2) the trial court did not give Mr. Tuller an opportunity "to submit his motion and brief in opposition to defendants various motions for summary judgment."

¹ The district court's judgment was entered April 8, 1996; the Notice of Appeal was filed April 12, 1996.

The record on appeal does not support Mr. Tuller. In fact, it shows the contrary.

The judgment of the district court is **AFFIRMED** for substantially the same reasons set forth in the magistrate judge's recommendations and the district court's order.

Entered for the Court:

WADE BRORBY
United States Circuit Judge