

OCT 1 1997

PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

FALASHA M. AMEN-RA,

Plaintiff-Appellant,

v.

MARVIN L. NICHOLS, Commander,
USDB Ft. Leavenworth; HERBERT R.
TILLERY, Colonel, USDB Ft.
Leavenworth,

Defendants-Appellees.

No. 96-3409

(D.C. No. 96-3418-GTV)
(D. Kan.)

ORDER AND JUDGMENT*

Before TACHA, BALDOCK, and LUCERO, Circuit Judges.**

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 to honor the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f); 10th Cir. 34.1.9. The case is therefore ordered submitted without oral argument.

Plaintiff Falasha M. Amen-Ra, appearing pro se, appeals the district court's dismissal of his complaint filed pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). On appeal, Plaintiff complains that officials at USDB Ft. Leavenworth denied him due process and equal protection of the law when they refused to provide a formal hearing after issuing an observation report regarding his alleged participation in a conspiracy "to create a possible prison disturbance." Plaintiff also complains that he is the subject of systematic discrimination by officials at USDB Ft. Leavenworth because he "[opened] the pandora's box concerning military parole" by successfully obtaining a writ of habeas corpus in the case of Jefferson v. Hart, 84 F.3d 1314 (10th Cir. 1996). We exercise jurisdiction under 28 U.S.C. § 1291, review the district court's dismissal *de novo*, Kidd v. Taos Ski Valley, Inc., 88 F.3d 848, 854 (10th Cir. 1996), and affirm.

In Amen-Ra v. Tillery, 83 F.3d 431, 1996 WL 200368 (10th Cir. 1996) (unpublished), this Court rejected Plaintiff's contention that officials at USDB Ft. Leavenworth denied him his right to due process by not providing a formal hearing regarding the exact observation report about which he now complains. The district court recognized Plaintiff's attempt to relitigate the previously raised claims and dismissed them. The district court also found Plaintiff's conclusory allegations did not support his contention of systematic discrimination by officials at USDB Ft. Leavenworth. Accordingly, the district court dismissed Plaintiff's discrimination claim for failure to

state a claim upon which relief can be granted. Plaintiff filed a motion to reconsider and submitted additional evidence for the district court's consideration. The district court reviewed the additional evidence and denied the motion.

We have reviewed the parties' briefs, pleadings, and the entire record before us. We agree with the district court substantially for the reasons set forth in its order dismissing Plaintiff's complaint.

AFFIRMED.

Entered for the Court,

Bobby R. Baldock
Circuit Judge