

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

February 12, 2013

Elisabeth A. Shumaker
Clerk of Court

LINDA MICHAEL,

Plaintiff-Appellant,

v.

MILLICENT NEWTON-EMBRY,
Warden; ANGELA JOHNSON, Case
Mgr; RICHARD ARNOLD,
Captain/Misconduct Investigator; JOHN
CAROTHERS, Faith & Character
Provider; DEBBIE MORTON, Director's
Designee; OLA ONAJOB, Unit Mgr;
SALLY TAYLOR, Case Mgr; THOMAS
UZUEGBUNEM, Case Mgr; DENNIS
GRIFFITH, DHO Officer; CATHY
CONRAD, Faith & Character Facilitator;
KAREN JOHNSON, DHO Officer,
STATE OF OKLAHOMA, OFFICE OF
THE OKLAHOMA ATTORNEY
GENERAL,

Defendants-Appellees.

MIKE MURRY, Deputy Warden,

Defendant.

No. 12-6129
(D.C. No. 5:10-CV-01064-F)
(W.D. Okla.)

ORDER AND JUDGMENT*

* 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)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding

(continued)

Before **KELLY, McKAY, and O'BRIEN**, Circuit Judges.

On January 9, 2013, we issued an order determining that plaintiff-appellant Linda Michael's appeal was frivolous, denying her motion for leave to proceed on appeal without prepayment of costs or fees, and directing her to pay the full filing and docketing fees to the Clerk of the District Court within twenty days. On January 31, 2013, she made the last partial payment to pay the full amount of the fees as directed.

The appeal is dismissed as frivolous. *See* 28 U.S.C. § 1915(e)(2)(b)(i). This dismissal counts as a strike under 28 U.S.C. § 1915(g). *See Hafed v. Fed. Bureau of Prisons*, 635 F.3d 1172, 1179 (10th Cir. 2011) (holding that a circuit court's dismissal of a prisoner's appeal for failure to prosecute was a strike where the circuit court's prior denial of in forma pauperis status on the basis of frivolousness was "the 'but for' cause of that court's subsequent dismissal").

Entered for the Court

Terrence L. O'Brien
Circuit Judge

precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.