

UNITED STATES COURT OF APPEALS August 7, 2013

TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

DAVID J. D'ADDABBO,

Plaintiff - Appellant,

v.

PRESIDENT BARACK OBAMA,
CEO, President and Executive Branch
of the U.S., Inc., a corporation for
profit, a/k/a USA; INTERNAL
REVENUE SERVICE, From the
Executive Branch of Defendant #1, the
U.S. Inc., the company called the IRS;
and STATE OF UTAH, Executives
office of the Governor, and its
branches thereof attached noting the
State Tax Commission and others,

Defendants - Appellees.

No. 13-4080
(D.C. No. 1:12-CV-00252-RJS)
(D. Utah)

ORDER AND JUDGMENT*

Before **TYMKOVICH, ANDERSON, and BACHARACH**, 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*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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. 32.1.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in 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.

Plaintiff and appellant, David J. D'Addabbo, proceeding *pro se*, appeals the dismissal of his civil rights action against defendants, President Barack Obama, the Internal Revenue Service ("IRS"), and the State of Utah. For the following reasons, we affirm the dismissal of this action.

As the district court noted, Mr. D'Addabbo's complaint and his brief on appeal are somewhat difficult to understand. Nonetheless, it appears that Mr. D'Addabbo has asserted civil rights violations under 42 U.S.C. §§ 1983 and 1985, as well as other federal statutes. Among his claimed injuries, Mr. D'Addabbo alleges that he was not adequately compensated after a workplace accident, that he was arrested and forced to plead to false charges, that he was subjected to dangerous and harmful conditions while confined, that he was falsely judged to be a felon, and that his wife was not allowed to claim him as a dependent for tax purposes. He requested \$153 million in damages and \$2 trillion in additional damages for the American people at large.

The district court dismissed Mr. D'Addabbo's claims against the State of Utah on the ground of Eleventh Amendment immunity and against the IRS and President Obama on the ground of sovereign immunity. Furthermore, § 1983 does

not allow claims against federal agencies or officials who act under color of federal (and not state) law; Mr. D'Addabbo did not plead and cannot meet the § 1985 requirements limiting its reach to protect only those who are subject to historic class-based animus; Mr. D'Addabbo has failed to allege facts sufficient to make out a plausible claim under Fed. R. Civ. P. 8 because his complaint contained only vague, conclusory and incredible claims; Mr. D'Addabbo failed to serve the parties with a proper summons; and the district court judge did not err by failing to recuse himself on the ground that his salary is paid by the federal government.

Mr. D'Addabbo adds no new arguments on appeal. Indeed, his appellate brief and arguments are not coherent or precise, even given his *pro se* status. They utterly fail to convince us that the district court erred in any way in dismissing this action. Accordingly, we affirm the dismissal of Mr. D'Addabbo's claims for substantially the reasons stated by the district court in its Memorandum Decision and Order.

AFFIRMED.

ENTERED FOR THE COURT

Stephen H. Anderson
Circuit Judge