

UNITED STATES COURT OF APPEALS

Filed 4/25/96

TENTH CIRCUIT

FALASHA MANSA MUSA AMEN-RA,

Petitioner-Appellant,

vs.

U.S. ARMY PAROLE BOARD and
DEPARTMENT OF ARMY,

Respondents-Appellees.

No. 95-3361
(D.C. No. 94-CV-3427)
(D. Kan.)

ORDER AND JUDGMENT*

Before PORFILIO, McKAY, and KELLY, Circuit Judges.**

Mr. Amen-Ra appeals from the denial of his petition for a writ of habeas corpus, 28 U.S.C. § 2241. He has been denied parole and contends that application of current parole guidelines, rather than a provision in effect at that the time of his conviction, violates the prohibition against ex post facto laws and cruel and unusual punishment.

We have noted, however, “that the decided weight of authority is that guidelines of this

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This 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 the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

sort, being guidelines only, are not subject to the *ex post facto* prohibition.” Resnick v. United States Parole Comm’n, 835 F.2d 1297, 1301 (10th Cir. 1987). Moreover, given the discretionary nature of parole, Mr. Amen-Ra has not demonstrated that he has been disadvantaged by application of the current system. See Weaver v. Graham, 450 U.S. 24, 29 (1981). Finally, we decline to consider arguments raised in the brief concerning the validity of the current provisions that were not raised in the petition.

AFFIRMED. We GRANT Mr. Amen-Ra’s Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees. We DENY Mr. Amen-Ra’s Motion to Submit Documentary Evidence. The mandate shall issue forthwith.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge