FILED
United States Court of Appeals
Tenth Circuit

September 16, 2021

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

EARL CROWNHART,

Plaintiff - Appellant,

v.

SHIELD FOUNDATION; DANIEL SMITH; ANNIE MIGILL COLLINS,

Defendants - Appellees.

Nos. 21-1077 & 21-1230
(D.C. No. 1:21-CV-00544-LTB)
(D. Colorado)

ORDER AND JUDGMENT*

Before **HOLMES**, **KELLY**, and **McHUGH**, Circuit Judges.

Pro se litigant, Earl Crownhart, appeals the district court's dismissal of the civil action he filed in the District of Colorado against the Shield Foundation and individuals Daniel Smith and Annie Collins. The district court dismissed the suit without prejudice, noting that it has permanently enjoined Mr. Crownhart from filing *pro se* civil actions in the District of Colorado without first obtaining permission

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* 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. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 Federal Rule of Appellate Procedure 32.1 and Tenth Circuit Rule 32.1.

from the court. Because Mr. Crownhart did not comply with the district court's restrictions, the court dismissed his complaint.

Mr. Crownhart also appeals the district court's denial of a post-judgment motion he filed in the same case. After being warned that additional filings in the case would be stricken, Mr. Crownhart filed a motion two months after judgment had been entered. Also before this court are eleven additional submissions from Mr. Crownhart in Appeal No. 21-1077 and seven additional submissions from Mr. Crownhart in Appeal No. 21-1230.

Mr. Crownhart is well-known to this court. This court has previously taken notice of Mr. Crownhart's "ever-growing heap of federal-court filings." *Crownhart v. May*, 556 F. App'x 758, 760 n.3 (10th Cir. 2014) (unpublished). Earlier this year, we estimated that his federal court filings "span[] fifteen-plus years and total[] well over fifty suits." *Crownhart v. T-Mobile Wireless Customer Serv.*, 840 F. App'x 368, 369 (10th Cir. 2021) (unpublished). Since the beginning of this year alone, this court has denied two nearly identical filings by Mr. Crownhart. *See Crownhart v. McDonald's Corp.*, 846 F. App'x 711, 713 (10th Cir. 2021) (unpublished); *T-Mobile Wireless Customer Serv.*, 840 F. App'x at 371. In 2020, we denied four. *See Crownhart v. McIntyre Rentals*, 809 F. App'x 551, 551–52 (10th Cir. 2020) (unpublished); *Crownhart v. Graham*, 809 F. App'x 553, 554 (10th Cir. 2020) (unpublished); *Crownhart v. Mason*, 800 F. App'x 675, 676 (10th Cir. 2020) (unpublished); *Crownhart v. Jones*, 790 F. App'x 174, 175 (10th Cir. 2020) (unpublished).

These appeals all follow a clear pattern. In 2013, due to Mr. Crownhart's "lengthy and abusive" history of repeated filings, the District of Colorado issued an order enjoining him from filing future *pro se* civil actions without first obtaining leave from the court. *T-Mobile Wireless Customer Serv.*, 840 F. App'x at 369. This order has not deterred Mr. Crownhart. Despite the order, Mr. Crownhart has "continued to file suits in district court and then appeal them to our court after their dismissal" for failure to obtain leave from the district court without addressing the underlying issue—his failure to comply with the district court's filing restrictions. *Id.*; *see also McDonald's*, 846 F. App'x at 713 ("[O]n appeal, [Mr.] Crownhart repeats the arguments he made to the district court concerning the merits of his discrimination claim instead of addressing the district court's reasoning for dismissing his action."); *Mason*, 800 F. App'x at 676 ("Further, [Mr.] Crownhart fails to address on appeal the district court's reasons for dismissing his initial action.").

This is precisely what has happened here. This action was dismissed by the district court "because [Mr. Crownhart] failed to comply with the sanction order restricting his ability to file *pro se* actions in this Court." ROA Vol. 1 at 51. On appeal, Mr. Crownhart does not address the reasons for the district court's dismissal. Instead, he continues to press the merits of his claim. He argues the district court "didn't review the complaint thoughly [sic]" and dismissal was "unconstitutionally wrong" because "the claims were not frivolous or malicious." Aplt Br. Case No. 21-1077 at 4. However, he never addresses his failure to follow the district court's filing restrictions.

This appeal is clearly part of a larger pattern where Mr. Crownhart makes little or no attempt to satisfy the district court's filing restrictions and then appeals to this court without ever addressing the reasons for the initial dismissal. Given this pattern of behavior, and the resultant drain on judicial resources from these frivolous appeals, this court warns Mr. Crownhart that additional filings of this nature will result in an order restricting him from appealing *in forma pauperis* the dismissal of cases in which he makes no effort to comply with the district court's filing restrictions.

As to this court's decision on Mr. Crownhart's immediate appeals, we first address whether Mr. Crownhart may proceed IFP in this instance. Because the district court denied Mr. Crownhart's application to proceed IFP and certified that any appeal would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3), Mr. Crownhart is not entitled IFP status unless this court concludes that his appeal contains a nonfrivolous argument. *See Rolland v. Primesource Staffing, L.L.C.*, 497 F.3d 1077, 1079 (10th Cir. 2007). While Mr. Crownhart has demonstrated financial inability to pay the required filing fees, no nonfrivolous argument exists to support either of his appeals.

Because Mr. Crownhart fails to address the underlying reasons for the district court's dismissal—namely, his failure to comply with the district court's filing restriction—this court concludes that no nonfrivolous argument exists to support his appeal of the district court's dismissal.

His second appeal is similarly meritless. Two months after the district court dismissed Mr. Crownhart's case and issued a judgment, Mr. Crownhart filed a document captioned "Motion to File Leave to File to Compell [sic] to Add a Second Amended Partie [sic] . . ." which was stricken by the court because the action had been closed. ROA Vol. 1 at 67. The district court had previously warned Mr. Crownhart that additional filings in the case would be stricken. *Id.* Mr. Crownhart filed a timely appeal of the district court's decision on his post-judgment filing. Appeal No. 21-1230.

Again, however, Mr. Crownhart fails to address on appeal the reasons for the district court's decision to strike the motion—specifically, that the case had long been closed. Instead, Mr. Crownhart focuses on the dismissal of the original case, "Lewis T. Babcock striking a person's actions and dismissing a case violates the First Amendment right under the right to petition the government." Aplt Br. Case 21-1230 at 4. That original order is not before us here. Because Mr. Crownhart has failed to present a nonfrivolous argument that addresses either the filing restrictions or the post-judgment nature of his motion, we deny his petition to proceed IFP on appeal.

Even if this court allowed Mr. Crownhart to proceed IFP on these appeals, this court would affirm both district court decisions on the merits for the same reasons articulated above.

We review a district court's application of a previously imposed filing restriction for abuse of discretion. *See In re Peterson*, 338 F. App'x 763, 764 (10th Cir. 2009) (unpublished). We are satisfied that the court did not abuse its discretion

because Mr. Crownhart failed to abide by the district court's restrictions, neither obtaining representation nor seeking leave of court before filing the action. He presents no explanation on appeal as to this failure. The district court's denial of Mr. Crownhart's post-judgment motion was similarly appropriate.

Accordingly, we **AFFIRM** the district court's dismissal of the action and its denial of Mr. Crownhart's post-judgment motion. We additionally **DENY** Mr. Crownhart's motion to proceed *in forma pauperis* on appeal. All other pending motions are therefore also **DENIED**.

Entered for the Court

Carolyn B. McHugh
Circuit Judge