

**UNITED STATES COURT OF APPEALS January 11, 2008**

**TENTH CIRCUIT**

**Elisabeth A. Shumaker**  
**Clerk of Court**

RICHARD VALDEZ,

Plaintiff - Appellant,

v.

No. 07-1313  
(D.C. No. 07-CV-740-ZLW)  
(D. Colo.)

JULIE MARSHALL, Judge, District Court Fremont County; COLORADO DEPARTMENT OF CORRECTIONS; BILL RITTER, Governor; ALLEN STANLEY, Colorado Department Division of State Board of Parole and Complete Staff; DIVISION OF ADULT PAROLE AND COMMUNITY CORRECTIONS; JEANEEN MILLER; STATE OFFICE OF THE DISTRICT ATTORNEY, Fremont County; MOLLY CHILSON, D.A.; KATHY EBERLING, D.A.; UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C.; ALBERTO GONZALES, U.S. Attorney; NORA KURTZ, Sgt. Mailroom Arkansas Valley Correctional Facility and Complete Staff; ADULT PROBATION OF FREMONT COUNTY; MARK NETHERCOT; COLORADO STATE OFFICE OF THE PUBLIC DEFENDER; MR. WILSON; FRANCES BROWN; SAM MCCLURE; WORLEY, Canyon City Police Dept. Detective; LOU ARCHULETA, Arkansas Valley Correctional Facility Warden; NINA DAVIS, Canyon City Police Dept. Cooperating Source; UNITED

STATES SENTENCING  
COMMISSION; KENNETH P.  
COHEN, Washington, D.C.,

Defendants - Appellees.

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**ORDER AND JUDGMENT\***

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Before **KELLY, MURPHY, and O'BRIEN**, Circuit Judges.\*\*

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Defendant-Appellant Richard Valdez, an inmate appearing pro se, appeals the dismissal of his 42 U.S.C. § 1983 complaint without prejudice. Mr. Valdez sought declaratory, injunctive, and monetary relief against a variety of state, local and federal officials challenging his conviction, sentence, and conditions of confinement. Though Mr. Valdez argues on appeal that the district court never addressed the merits of his claims, we affirm for substantially the same reasons given by the district court.<sup>1</sup> The invalidity or improper execution of a sentence is

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

\*\* 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(G). The cause is therefore ordered submitted without oral argument.

<sup>1</sup> Mr. Valdez also requested that the court hear his case en banc. His request does not comply with Fed. R. App. P. 35(b)(1) which requires that a petition address the extraordinary grounds which might justify an initial hearing

addressed through a habeas petition. 28 U.S.C. §§ 2241, 2254; see Preiser v. Rodriguez, 411 U.S. 475, 487, 500 (1973). Additionally, the claims for relief under § 1983 lack sufficient focus and detail to transform them into claims for relief.

AFFIRMED. All pending requests and motions are denied including the motion to proceed in forma pauperis. Mr. Valdez must immediately pay the unpaid balance due on the appellate filing fee.

Entered for the Court

Paul J. Kelly, Jr.  
Circuit Judge

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en banc. See also 10th Cir. R. 35.1(A). Accordingly, the request is denied.