

**FILED**  
**United States Court of Appeals**  
**Tenth Circuit**

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

**October 24, 2023**

**Christopher M. Wolpert**  
**Clerk of Court**

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MICHAEL SHANE H.W. GOODGE,

Plaintiff - Appellant,

v.

VALERIE MONTGOMERY; TAYLOR  
FITHAN; PATRICK KENNEDY;  
JOSEPH ROY BALL; KIP HALLMAN;  
JORGE DOMINICS,

Defendants - Appellees.

No. 23-1276  
(D.C. No. 1:23-CV-01692-LTB)  
(D. Colo.)

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**ORDER AND JUDGMENT\***

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Before **MATHESON**, **BRISCOE**, and **EID**, Circuit Judges.

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Plaintiff Michael Shane H.W. Goodge, currently confined in El Paso County, Colorado, filed two identical civil complaints in the district court. The district court dismissed without prejudice the second of those complaints. Goodge now appeals from that dismissal. Exercising jurisdiction pursuant to 28 U.S.C. § 1291, we affirm the judgment of the district court.

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel.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

I

Goodge is a prisoner at the El Paso County Criminal Justice Center (EPCCJC) in Colorado Springs, Colorado. On June 30, 2023, Goodge filed with the district court a pro se prisoner complaint against six named defendants, Valerie Montgomery, Taylor Fithan, Patrick Kennedy, Joseph Roy Ball, Kip Hallman, and Jorge Dominics. The district court docketed the complaint as case number 1:23-cv-01691-SBP (“01691 case”).

On that same day, Goodge sent the clerk of the district court a pro se handwritten letter, along with a handwritten affidavit that was similar in some respects to a civil complaint. The clerk of the district court construed the documents as a civil complaint and, in turn, docketed them as a new civil case with case number 1:23-cv-01692-SBP (“01692 case”).

The magistrate judge assigned to the 01692 case issued an order directing Goodge to cure deficiencies in the filed documents by completing and filing a “current District of Colorado form Prisoner complaint.” ECF No. 3 at 2. The order also directed Goodge to complete and file a motion and affidavit for leave to proceed pursuant to 28 U.S.C. § 1915.

On July 24, 2023, Goodge filed a set of pro se documents that included a motion and affidavit for leave to proceed pursuant to 28 U.S.C. § 1915, as well as a three-page handwritten document describing the testimony of a witness whose testimony he intended to present. Notably, Goodge handwrote both the 01691 case

number and the 01692 case number on his documents. The clerk of the district court docketed the documents as a prisoner complaint in the 01692 case.

On August 7, 2023, the district court issued an order dismissing the 01692 case without prejudice as duplicative of the 01691 case. The district court noted that Goodge “ha[d] submitted the same letters, motions, and Prisoner Complaint” in each case, and that, “[a]s a result, the parties, claims, and relief sought by [Goodge] in the two cases [we]re identical and duplicative of one another.” ROA, Vol. I at 16–17. “Because th[e] [01692] case [wa]s identical and duplicative of” the 01691 case, i.e., “the lower-numbered action,” the district court chose to dismiss “th[e] higher-numbered second action . . . without prejudice.” *Id.* at 17. The district court also, in its order of dismissal, “certifie[d] pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from th[e] order would not be taken in good faith and therefore” denied Goodge “in forma pauperis status . . . for the purpose of appeal.” *Id.*

The district court entered judgment in the case that same day. Goodge then filed a timely notice of appeal.

### III

Goodge, in his opening brief, repeats many of the allegations contained in both of the complaints he filed in the district court. Goodge does not, however, challenge the district court’s conclusion that the 01692 case was duplicative of the pending 01691 case.

It is well established that federal district courts possess the power to administer their own dockets. *See Hartsel Springs Ranch of Colo., Inc. v. Bluegreen*

*Corp.*, 296 F.3d 982, 985 (10th Cir. 2002). That is precisely what the district court did here: it dismissed the 01692 case without prejudice because it was duplicative of the pending 01691 case. By doing so, the district court clearly intended to conserve judicial resources and promote the efficient disposition of Goodge’s claims. We therefore find no abuse of discretion on the part of the district court in dismissing the 01692 case without prejudice. *Id.*

IV

The judgment of the district court is AFFIRMED. Goodge’s motion to proceed on appeal in forma pauperis is DENIED.

Entered for the Court

Mary Beck Briscoe  
Circuit Judge