FILED
United States Court of Appeals
Tenth Circuit

October 29, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

BELINDA ROBERTSON,

Plaintiff - Appellant,

v.

THEODORE MARKOWSKI; MARKOWSKI-RUVALCABA LAW FIRM LLC,

Defendants - Appellees.

No. 26-2149
(D.C. No. 2:26-CV-01572-MIS-GBW)
(D. N.M.)

ORDER AND JUDGMENT*

Before **MORITZ**, **BALDOCK**, and **EID**, Circuit Judges.**

Plaintiff Belinda Robertson, proceeding pro se, brought this action in the federal district court against Defendants Theodore Markowski and Markowski-Ruvalcaba Law Firm LLC, a private attorney and his law firm. In her amended complaint, Plaintiff purported to sue Defendants under 42 U.S.C. § 1983 and New Mexico state law for violating her civil rights in connection with a state court domestic relations lawsuit.

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* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

To make a long story short, the district court dismissed Plaintiff's § 1983 claim because an element of such claim is state action and Defendants are not state actors. *See Polk Co. v. Dodson*, 454 U.S. 312, 318 (1981) ("[A] lawyer representing a client is not, by virtue of being an officer of the court, a state actor 'under color of law' within the meaning of §1983."). The district court then exercised its discretion to dismiss Plaintiff's state law claims without prejudice pursuant to 28 U.S.C. § 1367(c)(3). Plaintiff timely appealed and filed a brief that did not respond to the district court's decision to dismiss the amended complaint's § 1983 claim for failure to allege state action on the part of Defendants. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm because the district court properly dismissed Plaintiff's complaint for the reasons stated in its "Order of Dismissal" entered on August 31, 2026.

Plaintiff's motion to proceed in forma pauperis (IFP) pursuant to 28 U.S.C. § 1915(a) is denied on the basis of frivolity. *See Lister v. Dep't of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005) ("[I]n order to succeed on a motion to proceed IFP, the movant must show a financial inability to pay the required filing fees, as well as the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised in the action.").

Motion to proceed IFP DENIED; Judgment AFFIRMED. Plaintiff's motion for electronic-filing privileges is denied as moot.

Entered for the Court

Bobby R. Baldock
Circuit Judge