

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

April 29, 2008
Elisabeth A. Shumaker
Clerk of Court

EDDIE SANTANA,

Plaintiff-Appellant,

v.

OFFICER CHANDLER, sued as:
Officer Ms. Chandler, in her
individual and professional capacity;
CITY OF CATOOSA, OKLAHOMA,

Defendants-Appellees.

No. 07-5144
(D.C. No. 07-CV-215-JHP-SAJ)
(N.D. Okla.)

ORDER AND JUDGMENT*

Before **McCONNELL**, **ANDERSON**, and **BRORBY**, Circuit Judges.

Plaintiff-appellant Eddie Santana brought various federal and state-law claims against defendants based on defendants impoundment of his vehicle. The district court dismissed for failure to state a claim for relief under Fed. R. Civ. P. 12(b)(6) and on various other grounds.

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

Mr. Santana's sole issue on appeal is his contention that the district court erred in failing to consider his challenge to the constitutionality of the state law under which his vehicle was impounded. In his complaint, however, Mr. Santana did not allege that the impoundment statute was unconstitutional. He is therefore barred from raising the issue for the first time on appeal. *Sussman v. Patterson*, 108 F.3d 1206, 1210 (10th Cir. 1997).

We AFFIRM the order of the district court for substantially the reasons stated by that court.

Entered for the Court

Wade Brorby
Circuit Judge