

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

August 14, 2008
Elisabeth A. Shumaker
Clerk of Court

DENNIS LEON SMITH, BRUCE
CLYDE SMITH,

Plaintiffs - Appellants,

v.

UNITED STATES OF AMERICA;
STATE OF COLORADO; STATE OF
OKLAHOMA; STATE OF KANSAS;
STATE OF NEW MEXICO; STATE
OF TEXAS, and John and Jane Does
1-50,

Defendants - Appellees.

No. 08-1166

(D. Colorado)

(D.C. No. 07-CV-1446-ZLW)

ORDER AND JUDGMENT*

Before **BRISCOE**, **MURPHY**, and **HARTZ**, Circuit Judges.

After examining the briefs and appellate record, this court 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*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

Appellants Dennis Smith and Bruce Smith initiated an action in the United States District Court for the District of Colorado by filing a document captioned, “Private Case to Appropriate Suitor’s Superior Claim.” The matter was dismissed without prejudice on August 22, 2007, after Appellants failed to comply with the district court’s order instructing them to cure deficiencies. Eight months later Appellants filed a document with the district court titled, “Notice of Conditions Precedent.” The court entered a minute order finding the document both inappropriate and incomprehensible. Appellants were warned that any further inappropriate pleadings they file in the matter will be stricken.

Appellants filed a *pro se* notice of appeal seeking to challenge the district court’s minute order. Their appellate briefs do not contain any reasoned argument that the court’s minute order is a final decision under 28 U.S.C. § 1291 or immediately appealable under any exception to the final judgment rule. Appellants do not assert that they have been prevented from filing any additional pleadings with the district court or argue that their document titled “Notice of Conditions Precedent” is a properly filed motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. Accordingly, the appeal is **dismissed** for lack

of appellate jurisdiction. Dennis Smith's motion and Bruce Smith's motion seeking to proceed *in forma pauperis* on appeal are **denied**.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge