

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

JAN 31 1991

ROBERT L. HOECKER
Clerk

CHRISTOPHER WHITESELL,
Plaintiff-Appellant,
v.
GARY MAYNARD,
Defendant-Appellee.

No. 89-6171
(D.C. No. 88-2233-A)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before MOORE and BARRETT, Circuit Judges, and SPARR**, District Judge.

**Honorable Daniel B. Sparr, United States District Court for the District of Colorado, sitting by designation.

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); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Plaintiff Christopher Whitesell, appearing pro se and in forma pauperis, brought this action under 42 U.S.C. § 1983 seeking damages and injunctive relief for various alleged violations of

* This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

his constitutional rights in connection with a prison disciplinary proceeding. Following defendant's motion to dismiss, treated by the district court as one for summary judgment, and plaintiff's response, the district court granted summary judgment to defendant. Plaintiff appeals two of the issues presented to the district court, namely that 1) the alleged failure of his appointed staff representative to perform her "expected responsibilities" violated plaintiff's sixth and fourteenth amendment rights; and 2) using a confidential informant's statement as the sole evidence supporting a guilty finding on the charged offense violated plaintiff's due process rights.

We review this case de novo, applying the same standard as the district court upon a motion for summary judgment: whether any genuine issue of material fact is in dispute and, if not, whether the moving party is entitled to judgment as a matter of law. Applied Genetics Int'l, Inc. v. First Affiliated Securities, Inc., 912 F.2d 1238, 1241 (10th Cir. 1990). Based on our review of the appellate record and the parties' briefs, we believe that the district court correctly decided this case.

Therefore, for substantially the same reasons contained in the district court's memorandum opinion dated April 12, 1989, and on the basis of the authorities therein, the judgment of the United States District Court for the Western District of Oklahoma is AFFIRMED.

ENTERED FOR THE COURT
PER CURIAM