

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

FILED

United States Court of Appeals
Tenth Circuit

JAN 9 1991

ROBBY G. JOHNSON,
Plaintiff-Appellant,
v.
DEPARTMENT OF CORRECTIONS; JAMES
SAFFLE; GARY MAYNARD; BOBBY BOONE;
JIM SORRELS; and DANNY NACE,
Defendants-Appellees.

ROBERT L. HOECKER
Clerk

No. 90-7042
(D.C. No. 89-559-C-S)
(E.D. Okla.)

ORDER AND JUDGMENT*

Before MCKAY, MOORE, and BRORBY, Circuit Judges.

Petitioner's Motion for Leave to Proceed on Appeal Without
Prepayment of Costs or Fees is hereby GRANTED.

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 submit-
ted without oral argument.

* 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.

Petitioner, Robby G. Johnson, is appealing the district court's dismissal of his action pursuant to 42 U.S.C. § 1983 seeking declaratory and injunctive relief for claimed deprivations of his civil rights. Mr. Johnson, an inmate at the Oklahoma State Penitentiary in McAlester, Oklahoma, alleges that his First, Fifth, Eighth, and Fourteenth Amendment rights have been violated by the conditions of his confinement. Specifically, he complains of restricted access to the law library, inadequate medical care, overcharging on canteen items, inadequate food and clothing, restrictions on his religious freedom, and anticipated conditions in a unit being built to house death row inmates.

The district court dismissed Petitioner's action as legally frivolous under 28 U.S.C. § 1915(d). "Dismissal under 28 U.S.C. § 1915(d) is discretionary and our review must focus on whether the district court abused that discretion in dismissing the plaintiff's complaint." Yellen v. Cooper, 828 F.2d 1471, 1475 (10th Cir. 1987). We hold that the district court did not abuse its discretion, and AFFIRM the district court's order for substantially the reasons set out therein.

The mandate shall issue forthwith.

Entered for the Court

Monroe G. McKay
Circuit Judge