

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

MAR 02 1992

ROBERT L. HOECKER
Clerk

KERRY BROWN BEY, SR.,
Plaintiff-Appellant,

v.

J. MICHAEL QUINLAN; H. ALLEN CARVER;
RALPH SWOBODA; SANDRA K. BRANSON;
ROBERT W. WOOD; CARL J. KOPPLIN;
FLORA MAGEE; ROBERT M. FENNER,

Defendants-Appellees.

No. 91-3307
(D.C. No. 91-CV-3240)
(D. Kan.)

ORDER AND JUDGMENT*

Before MOORE, TACHA, and BRORBY, Circuit Judges.

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.

Appellant Kerry Brown Bey appeals an order of the district court dismissing his pro se civil rights complaint. The district court found that the complaint failed to set forth a claim of constitutional dimension. We exercise jurisdiction under 28 U.S.C. § 1291 and affirm.

* 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.

Appellant argues that the district court misconstrued the nature of his claims and also failed to provide sufficient grounds for dismissing the complaint. Appellant contends that the district court erroneously dismissed the complaint for lack of federal jurisdiction and failed to render a judgment on the merits of the complaint.

After reviewing the record, we reject appellant's arguments. We find no merit to appellant's claim that the district court misconstrued the nature of the complaint. Further, we find that the district court rendered a judgment on the merits of the complaint. We agree with the district court, that appellant's complaint fails to state a colorable claim of constitutional dimension.

We GRANT appellant's motion for leave to proceed in forma pauperis and AFFIRM the district court's judgment denying relief. The mandate shall issue forthwith.

ENTERED FOR THE COURT

Deanell Reece Tacha
Circuit Judge