

UNITED STATES COURT OF APPEALS **January 3, 2008**
TENTH CIRCUIT **Elisabeth A. Shumaker**
Clerk of Court

BOB ALLEN CUSTARD,

Plaintiff - Appellant,

v.

HARLEY LAPPIN; HARRELL
WATTS; R. WILEY; K. REAR; M.
MONTGOMERY; J. T. SHARTLE;
BENJAMIN BRIESCHKE;
CHRISTOPHER B. SYNSVOLL;
UNITED STATES OF AMERICA;
MARK COLLINS; W. HAYGOOD; R.
MADISON, "Dolly"; B. HAYS; I.
GARCIA; A. FENLON,

Defendants - Appellees.

No. 07-1371
(D.C. No. 07-cv-844-ZLW-BNB)
(D. Colo.)

ORDER AND JUDGMENT*

Before **LUCERO, HARTZ, and GORSUCH**, Circuit Judges.

* After examining appellant's brief and the 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) and 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 This order and judgment is not binding precedent except under the doctrines of law of the case, *res judicata* and collateral estoppel.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.

Based on our independent review of the record in this case, and for substantially the same reasons set forth by the district court, we affirm that court's judgment. With the dismissal of his complaint as malicious under 28 U.S.C. § 1915(e)(2)(B)(i), Mr. Custard has now earned at least three strikes under § 1915(g); accordingly, he may bring no more civil actions or appeals under § 1915 unless he is under imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g). We warn Mr. Custard that any future frivolous, malicious, or abusive filings will put him at the risk of sanctions, including possible filing restrictions.

ENTERED FOR THE COURT

Neil M. Gorsuch
Circuit Judge