

May 25, 2010

UNITED STATES COURT OF APPEALS  
TENTH CIRCUIT

Elisabeth A. Shumaker  
Clerk of Court

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S. MOLI NGATUVAI,

Plaintiff-Appellant,

v.

UTAH COMMUNITY CREDIT  
UNION; BRANDON PEARSON,  
Branch Manager; SHAWN (LNU),  
Secretary to CEO; LISA (LNU), Asset  
Manager,

Defendants-Appellees.

No. 10-4037

(Case No. 2:09-CV-01016-TS)

(D. Utah)

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**ORDER AND JUDGMENT\***

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Before **KELLY, McKAY**, and **LUCERO**, Circuit Judges.

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After examining the briefs 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); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Plaintiff filed a pro se § 1983 action against a credit union and certain of its employees based on their denial of his request for a \$100 overdraft as well as the

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

credit union's alleged failure to have minorities employed in its offices in the city where Plaintiff resides. Plaintiff did not allege he ever sought employment at the credit union. The district court dismissed Plaintiff's complaint for failure to state a claim on which relief could be granted. Specifically, the court concluded the facts alleged by Plaintiff did not show either the deprivation of a federally protected right or that Defendants acted under color of state law.

After reviewing the parties' briefs and the record on appeal, we agree with the district court that Plaintiff has not set forth a claim on which relief may be granted. We therefore **AFFIRM** the dismissal of Plaintiff's complaint for substantially the reasons given by the district court.

Entered for the Court

Monroe G. McKay  
Circuit Judge