

UNITED STATES COURT OF APPEALS

January 26, 2011

TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

NORMAN A. PARADA,

Defendant–Appellant.

No. 10-3216

(D.C. No. 5:03-CR-40053-JAR-1)

(D. Kan.)

ORDER AND JUDGMENT*

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

After examining the briefs and the appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). This case is therefore ordered submitted without oral argument.

Appellant appeals the district court’s denial of his motion for recusal, which he filed in the underlying criminal case after his conviction became final through the Supreme Court’s denial of certiorari. We affirm.

When Appellant filed his recusal motion, his conviction was final and there

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

were no pending motions or proceedings in the district court. As it related to the closed criminal proceeding, his motion was moot because granting the motion to recuse would have provided him with no effective relief. *See Kan. Judicial Review v. Stout*, 562 F.3d 1240, 1246 (10th Cir. 2009). To the extent he sought the district judge's recusal in any future habeas or other proceedings, his motion was unripe because no such proceedings were pending. *See Morgan v. McCotter*, 365 F.3d 882, 890-91 (10th Cir. 2004). And, to the extent he now advances constitutional claims relating to his conviction, these claims were not presented to the district court and therefore are not properly before this court. *See Hicks v. Gates Rubber Co.*, 928 F.2d 966, 970 (10th Cir. 1991).

The district court's decision is hereby **AFFIRMED**.

Entered for the Court

Monroe G. McKay
Circuit Judge