FILED
United States Court of Appeals
Tenth Circuit

March 25, 2016

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

ERIK PADILLA,

Plaintiff - Appellant,

v.

SHEI CLERK; STEPHANIE CLERK; KATHIEA CLERK; SHERI H. WHITE, Two; DONNA CLERK; BRANDON WATTS; DEC NAZI; NAZI POPE, One; NAZI POPE, Two; OSIRIUS MAYOR, One; ISIS MAYOR, One; AMEN SIM POLICE NAZI, Five; JEREMIAH COMACHOS, Real Da also known as Delilch Padilla also known as Robert Flores also known as Ru Ray also known as Marty Padilla; MARTY PADILLA; RAMSES FNU, Mark Padilla's Wife; GREEK FNU, Marty Padilla's step son; ROBERT CHUNG, Police; CAROL WALTERS, New Police Officer Maintenance; EVELYN WALKER, New Police Officer Maintenance,

Defendants-Appellees.

No. 15-2191
D.C. No. 1:15-CV-00746-JB-KK
(D. N.M.)

ORDER AND JUDGMENT[*]

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[*] The Court concludes that oral argument would not materially aid our consideration of the appeal. *See* Fed. R. App. P. 34(a)(2)(C); 10th Cir. R. 34.1(G). Thus, we have decided the appeal based on the briefs.

Our order and judgment does not constitute binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

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Before **LUCERO**, **MATHESON**, and **BACHARACH**, Circuit Judges.

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Mr. Erik Padilla sued in federal district court, but did not pay the filing fee or file an application for leave to proceed in forma pauperis. The district court gave Mr. Padilla time to make the payment or file an application for pauper status. But Mr. Padilla did not take either step. As a result, the district court dismissed the action without prejudice. Mr. Padilla appeals and seeks leave to appeal in forma pauperis. We affirm and deny leave to proceed in forma pauperis.

On appeal, Mr. Padilla argues only that he could not afford the filing fee. But under federal law, the filing fee was mandatory. *See Brown v. Eppler*, 725 F.3d 1221, 1231 (10th Cir. 2013) ("all § 1915(a) does for any litigant is excuse the *pre*-payment of fees"). If Mr. Padilla could not prepay the filing fee, he could have applied for leave to proceed in forma pauperis. 28 U.S.C. § 1915(a). But he did not apply for pauper status even after being given extra time for this purpose. As a result, the district court did not err in dismissing the action.

In connection with the appeal, Mr. Padilla has requested leave to proceed in forma pauperis. We deny this request because the appeal lacks any reasonable basis under federal law. *See Rolland v. Primesource Staffing, L.L.C.*, 497 F.3d 1077, 1079 (10th Cir. 2007) (denying a motion to proceed in forma pauperis because the movant failed to show "a reasoned, nonfrivolous argument on the law

and facts in support of the issues raised on appeal"). As a result, Mr. Padilla must pay the filing fee within 21 days.

Entered for the Court

Robert E. Bacharach
Circuit Judge