

**FILED**  
**United States Court of Appeals**  
**Tenth Circuit**

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

**February 2, 2022**

**Christopher M. Wolpert**  
**Clerk of Court**

KENT VU PHAN,  
  
Plaintiff - Appellant,

v.

ELIZABETH B. VOLZ, Judge; DANIEL  
T. JACOBS, Attorney,  
  
Defendants - Appellees.

No. 21-1199  
(D.C. No. 1:21-CV-00965-LTB-GPG)  
(D. Colo.)

---

**ORDER AND JUDGMENT\***

---

Before **McHUGH, MORITZ, and ROSSMAN**, Circuit Judges.

---

Plaintiff Kent Vu Phan appeals pro se from the dismissal of his lawsuit against Defendants Elizabeth Beebe Volz, a state court judge in Arapahoe County, Colorado, and Daniel T. Jacobs, whom Judge Volz appointed as guardian ad litem to protect Mr. Phan’s interests in state-court lawsuits he filed in 2018. The district court dismissed Mr. Phan’s claims based on judicial immunity, and we affirm.

---

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

We review determinations of absolute immunity de novo.” *Perez v. Ellington*, 421 F.3d 1128, 1133 (10th Cir. 2005). Although we review a pro se litigant’s pleadings liberally, we will not “take on the responsibility of serving as the litigant’s attorney in constructing arguments and searching the record.” *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 841 (10th Cir. 2005).

A judge acting in her judicial capacity is absolutely immune from civil rights claims “unless the judge acts clearly without any colorable claim of jurisdiction.” *Snell v. Tunnell*, 920 F.2d 673, 686 (10th Cir. 1990). The district court held Judge Volz was entitled to absolute immunity, and Mr. Phan has not meaningfully challenged that holding on appeal. *See Garrett*, 425 F.3d at 841 (“Under [Fed. R. App. P.] 28, which applies equally to pro se litigants, a brief must contain more than a generalized assertion of error, with citations to supporting authority.”).

The courts have extended absolute immunity to other officials, including guardians ad litem, “who perform functions closely associated with the judicial process.” *Dahl v. Charles F. Dahl, M.D., P.C. Defined Ben. Pension Tr.*, 744 F.3d 623, 630 (10th Cir. 2014) (internal quotation marks omitted). This defense is called “quasi-judicial immunity” when applied to non-judges. *Id.* The district court held that quasi-judicial immunity protected Mr. Jacobs from Mr. Phan’s lawsuit, and Mr. Phan again has not argued otherwise on appeal.

We conclude that the district court correctly dismissed Mr. Phan’s lawsuit on these grounds. Accordingly, we affirm the dismissal of Mr. Phan’s claims against Judge Volz and Mr. Jacobs. We deny Mr. Phan’s motion for leave to proceed in

forma pauperis. *See Lister v. Dep't of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005) (on a motion to proceed in forma pauperis, the movant must show not only an inability to pay, but also “the existence of a reasoned, nonfrivolous argument on the law and facts”). Mr. Phan’s pending motion to dismiss this appeal is deficient and he has not corrected the deficiency as requested by the Court. The motion is therefore denied.

Entered for the Court

Nancy L. Moritz  
Circuit Judge