

UNITED STATES COURT OF APPEALS June 14, 2011

TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

MICHAEL ANTHONY DAVIS,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA;
HARLEY G. LAPPIN, Director, BOP;
HECTOR A LEDEZMA, Warden;
ROGALSKY, Unit Manager;
MENDEZ, Unit Manager; C
CRABTREE, Unit Counselor;
CARRIE CHRISTLY, Assistant
Inmate Systems Manager;
MALDONADO, South Central
Regional Director BOP; WILLIS,
Warden; KAREN L. COLLINS,
USPO; TERRI L. LASSITER, USPO;
MICHAEL J. WORLEY, AUSA;
NANCY LARSON, AUSA; J.
BEACH, Agent,

Defendants - Appellees.

No. 11-6072
(D.C. No. 5:10-CV-01136-HE)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **KELLY, HARTZ, and HOLMES**, Circuit Judges.**

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

** After examining the briefs and the appellate record, this three-judge
(continued...)

Michael A. Davis, a federal inmate appearing pro se, appeals from the district court's order dismissing his claims against Defendant Couch and his Privacy Act claims with prejudice for failure to state a claim and his FTCA claims without prejudice as premature. I R. 37-42; 28 U.S.C. §§ 1915A(b) and 1915(e)(2)(B). The district court adopted the report and recommendation of a magistrate judge, Davis v. United States, No. CIV-10-1136-HE, 2011 WL 704894 (W.D. Okla. Jan. 4, 2011), after determining that Mr. Davis was not raising Bivens claims. We deny in forma pauperis ("IFP") status and dismiss the appeal.

Mr. Davis was convicted in the Northern District of Texas of conspiracy to possess and distribute crack cocaine and distribution of crack cocaine, aiding and abetting, and his convictions were affirmed on appeal. See United States v. Moffitt, 233 F. App'x 409 (5th Cir.), cert. denied, 522 U.S. 1002 (2007). For substantially the same reasons set forth by the district court in adopting the magistrate judge's report and recommendation, we agree that Mr. Davis's claims cannot proceed.

To proceed on appeal IFP, Mr. Davis must present a reasoned, non-frivolous argument. This we find lacking. Accordingly,

** (...continued)
panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1(G). The cause is therefore ordered submitted without oral argument.

We DENY IFP status, remind Mr. Davis of his obligation to pay the filing fee, and DISMISS the appeal.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge