

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

**May 21, 2014**

**Elisabeth A. Shumaker**  
**Clerk of Court**

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MATTHEW ALAN SMITH,  
Plaintiff – Appellant,  
v.  
COLORADO DEPARTMENT OF  
LABOR AND EMPLOYMENT,  
Defendant – Appellee.

No. 13-1462  
(D.C. No. 1:13-CV-02946-LTB)  
(D. Colo.)

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**ORDER AND JUDGMENT\***

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Before **LUCERO, McKAY, and MURPHY**, 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 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.

*Pro se* Plaintiff, Mr. Matthew Alan Smith, filed this action challenging the State of Colorado's failure to grant him unemployment benefits. The trial court dismissed the action *sua sponte* because of lack of subject matter jurisdiction.

After reviewing the complaint and the trial court's order, we conclude 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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

trial court was correct. We therefore affirm for the reasons given by the trial court in its excellent and thorough order of dismissal.

The trial court denied plaintiff leave to proceed on appeal *in forma pauperis*. We deny his renewed petition.

The district court order dismissing the complaint and action is AFFIRMED.  
The appellee's motion to take judicial notice is GRANTED.

Entered for the Court

Monroe G. McKay  
Circuit Judge