

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

**UNITED STATES COURT OF APPEALS**

**TENTH CIRCUIT**

**February 18, 2010**  
**Elisabeth A. Shumaker**  
**Clerk of Court**

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DAVID MARTIN PRICE,

Plaintiff - Appellant,

v.

KATHRYN H. VRATIL, in her official capacity as Chief Judge of the United States District Court for the District of Kansas; UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS,

Defendants - Appellees.

No. 09-3172

(D. Kansas)

(D.C. No. 2:09-CV-02198-FJG)

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**ORDER AND JUDGMENT\***

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Before **MURPHY, GORSUCH**, and **HOLMES**, Circuit Judges.

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After examining appellant's brief 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). The case is therefore ordered submitted without oral argument.

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\*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

David Price filed suit against the United States District Court for the District of Kansas, and against Kathryn Vratil, in her official capacity as the Chief Judge of that court. In a comprehensive order, the district court denied Price's request to proceed *in forma pauperis*, concluding Price's suit was legally frivolous.<sup>1</sup> 28 U.S.C. § 1915(e)(2)(B). Accordingly, the district court dismissed the case without prejudice to the filing of a pre-paid complaint.

Price appeals and seeks permission to proceed on appeal *in forma pauperis*. This court has jurisdiction pursuant to 28 U.S.C. § 1291. For all those reasons set out by the district court in its order dated May 21, 2009, this court concludes Price's appeal is frivolous or malicious. Accordingly, we hereby **DISMISS** this appeal and the request to proceed in forma pauperis is denied. 28 U.S.C. § 1915(e)(2)(b)(i) (providing that "[n]otwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines . . . the . . . appeal is frivolous or malicious").

ENTERED FOR THE COURT

Michael R. Murphy  
Circuit Judge

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<sup>1</sup>The case was assigned to Chief Judge Fernando Gaitan of the United States District Court for the Western District of Missouri. Chief Judge Gaitan has been designated to sit in the District of Kansas when the need arises.