

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

March 29, 2011

Elisabeth A. Shumaker
Clerk of Court

RUDY STANKO,

Petitioner-Appellant,

v.

BLAKE DAVIS,

Respondent-Appellee.

No. 10-1543
(D.C. No. 1:08-CV-02659-PAB-CBS)
(D. Colorado)

ORDER AND JUDGMENT*

Before **BRISCOE**, Chief Judge, **ANDERSON**, and **MURPHY**, Circuit Judges.

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.

Rudy Stanko, a federal prisoner proceeding pro se, appeals from an order dismissing his 28 U.S.C. § 2241 habeas corpus petition as successive/abusive.

*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

Exercising jurisdiction pursuant to 28 U.S.C. § 1291, this court **affirms** the district court's order of dismissal.

Stanko filed the instant § 2241 petition in district court challenging the Bureau of Prisons' implementation of the Second Chance Act of 2007, Pub. L. No. 110-199, 122 Stat. 657. Because Stanko had already raised the same or similar issues in a previous § 2241 petition in the Eighth Circuit, *see Stanko v. Rios*, 366 F. App'x 706 (8th Cir. 2010), the district court concluded Stanko's instant petition was successive/abusive. *See Stanko v. Davis*, 617 F.3d 1262, 1269-70 (10th Cir. 2010) (holding that bar on second or successive habeas petitions and doctrine of abuse of the writ apply to § 2241 petitions and affirming district court's dismissal of earlier Stanko petition as successive).

The district court's conclusion that Stanko's § 2241 petition is successive/abusive is indisputably correct and Stanko's arguments to the contrary are utterly frivolous. Accordingly, for exactly those reasons set out by the district court, this court **AFFIRMS** the district court's order of dismissal. Furthermore, because Stanko has failed to make a reasoned, nonfrivolous argument on appeal, we **DENY** his motion to proceed on appeal in forma pauperis and order him to remit the full appellate filing fee forthwith.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge