

UNITED STATES COURT OF APPEALS June 15, 2011

TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

ERIC LEVANTER DeMILLARD,

Plaintiff-Appellant,

v.

MUNICIPALITY OF DENVER,
COLORADO; MUNICIPALITY OF
FORT COLLINS, COLORADO;
RAWLINS, WYOMING POLICE
DEPARTMENT,

Defendants-Appellees.

No. 11-1118
(D.C. No. 1:10-CV-02536-ZLW)
(D. Colo.)

ORDER AND JUDGMENT*

Before **LUCERO, EBEL,** and **GORSUCH,** Circuit Judges.

Eric DeMillard filed this suit against the Colorado Supreme Court, the Colorado Court of Appeals, the Larimer County District Court, and the Rawlins, Wyoming Police Department. In a thorough eight-page order, the district court dismissed Mr. DeMillard's amended complaint pursuant to 28 U.S.C. § 1915(e),

* After examining appellant's brief and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2) and 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 This order and judgment is not binding precedent except under the doctrines of law of the case, *res judicata* and collateral estoppel.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.

which governs proceedings *in forma pauperis* and provides that “the court shall dismiss the case at any time if the court determines that . . . the action . . . is frivolous.” 28 U.S.C. § 1915(e)(2)(B)(i).

Mr. DeMillard appeals this decision and seeks permission to proceed *in forma pauperis* on appeal. For substantially the same reasons set out by the district court in its order, we affirm the dismissal below. *See Fogle v. Pierson*, 435 F.3d 1252, 1259 (10th Cir. 2006) (“We generally review a district court’s dismissal for frivolousness under § 1915 for abuse of discretion.”). We also deny Mr. DeMillard’s motion to proceed *in forma pauperis*, as he fails to present a non-frivolous argument on appeal. And finally, we deny Mr. DeMillard’s motion to transfer his appeal to the Fifth Circuit, as he has provided no legal basis why this is required.

ENTERED FOR THE COURT

Neil M. Gorsuch
Circuit Judge