

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

November 9, 2016

Elisabeth A. Shumaker
Clerk of Court

DAVID MARTIN PRICE,

Plaintiff - Appellant,

v.

STATE OF KANSAS; KANSAS
DIVISION OF CHILDREN &
FAMILY SERVICES; SHAWNEE
COUNTY, KANSAS; YOUNG &
WILLIAMS, LLC; and AMY
RAYMOND, in her official and
individual capacity,

Defendants - Appellees.

No. 16-3277
(D.C. No. 2:15-CV-09327-CM-JPO)
D. Kan.

ORDER AND JUDGMENT*

Before **HARTZ, MURPHY, and PHILLIPS**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined
unanimously that oral argument would not materially assist in the determination

*This order and judgment is not binding precedent except under the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.

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.

David Martin Price appeals from an order of the United States District Court for the District of Kansas. The district court dismissed Price's complaint pursuant to the provisions of 28 U.S.C. § 1915(e). Exercising jurisdiction pursuant to 28 U.S.C. § 1291, this court **affirms**.

Price filed an eight-count complaint in the district of Kansas, naming various political entities, a private entity, and one individual. The matter was referred to a magistrate judge for initial screening and preparation of a report and recommendation. 28 U.S.C. § 636(b)(1)(B). The magistrate judge recommended that Price's complaint be dismissed pursuant to the provisions of § 1915(e)(2)(B)(ii) and (iii). In particular, the magistrate judge noted that each and every Kansas governmental entity sued in Price's complaint was immune. *Id.* § 1915(e)(2)(B)(iii). As to the non-state entities, the magistrate judge concluded Price's complaint contained no remotely meaningful factual allegations and, therefore, failed to state a claim on which relief could be granted. *Id.* § 1519(e)(2)(B)(ii). Upon de novo review, the district court adopted the magistrate judge's report and recommendation and dismissed Price's complaint. The district court also denied Price's requests for appointment of counsel and an emergency hearing.

This court reviews de novo the district court dismissal of Price's complaint. *Conkle v. Potter*, 352 F.3d 1333, 1335 (10th Cir. 2003) (conducting de novo review of dismissal pursuant to § 1915(e)(2)(B)(ii)); *Gagan v. Norton*, 35 F.3d 1473, 1475 (10th Cir. 1994) (holding that this court reviews de novo a district court's immunity determinations). Upon de novo review, we affirm the district court for substantially those reasons set out in the magistrate judge's report and recommendation, dated November 12, 2015, and the district court's order, dated August 29, 2016. Furthermore, given Price's complete failure to demonstrate "the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal," *DeBardleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991), this court concludes he is not entitled to proceed on appeal in forma pauperis. Thus, Price is hereby directed to immediately remit the full amount of the appellate filing fee.

For those reasons set out above, the order of the district court dismissing Price's complaint is hereby **AFFIRMED**.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge