

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

April 13, 2020

Christopher M. Wolpert
Clerk of Court

MARK PALMER,

Plaintiff - Appellant,

v.

THE CITY AND COUNTY OF DENVER;
OFFICE OF ECONOMIC
DEVELOPMENT; WORKFORCE
INVESTMENT BOARD; VALERIE
MCNAUGHTON; WILLIAM
GLASSMAN; AMY EDINGER;
SUZANNE IVERSEN; GARRY
HINTERLITER; CHIQUITA MCGOWIN;
RANAE TAYLOR; REBECCA BALU;
KATHLEEN MCCLEARY; CINDY
ACKERMAN; RYAN BRAND;
KRISTEN MERRICK; CAREER
SERVICE AUTHORITY,

Defendants - Appellees.

No. 19-1171
(D.C. No. 1:18-CV-01003-REB-STV)
(D. Colo.)

ORDER AND JUDGMENT*

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel.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

Pro se plaintiff Mark Palmer appeals the district court's order adopting the comprehensive and well-reasoned recommendation of the magistrate judge to dismiss Palmer's second amended complaint.¹ Exercising jurisdiction under 28 U.S.C. § 1291, we affirm. Further, we deny Palmer's motion to proceed in forma pauperis (IFP) on appeal.

Palmer's suit arose from the termination of his employment as a management analyst with the City and County of Denver. On March 19, 2019, the magistrate judge issued his recommendation and informed Palmer that unless he filed written objections within fourteen days, he would waive his right to appeal the district court's judgment. Palmer did not file any objections. The district court, on plain-error review, "agree[d] without reservation with each and all the magistrate judge's recommendations." R. at 865. The court also denied Palmer's motion to proceed IFP on appeal on the grounds that an appeal would be frivolous and not taken in good faith.

"We have adopted a firm waiver rule when a party fails to object to the findings and recommendations of the magistrate." *Duffield v. Jackson*, 545 F.3d 1234, 1237 (10th Cir. 2008) (brackets and internal quotation marks omitted). "The failure to timely object to a magistrate's recommendations waives appellate review of both factual and legal questions." *Id.* (internal quotation marks omitted).

¹ The district court dismissed some claims with prejudice, and others without prejudice.

And because Palmer has not advanced a rational argument on the law and facts, we deny his motion to proceed IFP on appeal. *See DeBardleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991) (“In order to succeed on his motion [to proceed IFP], an appellant must show a financial inability to pay the required filing fees and the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal.”). Palmer does not address the magistrate judge’s recommendation or explain why he did not file any objections. He suggests the court review over 200 pages in attachments to his brief in lieu of argument so that he need not relive the underlying events. This is unsatisfactory.

The judgment of the district court is affirmed. We deny Palmer’s motion to proceed IFP on appeal and remind him that he remains obligated to pay all appellate fees to the district court.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge