FILED
United States Court of Appeals
Tenth Circuit

May 1, 2023

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

JOHN D. HORTON,

Plaintiff - Appellant,

v.

MERRICK GARLAND,
United States Attorney General,

Defendant - Appellee.

No. 22-6193
(D.C. No. 5:22-CV-00894-F)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **MORITZ**, **EID**, and **CARSON**, Circuit Judges.

John Horton, pro se, appeals the district court's dismissal of his suit against the United States Attorney General "seek[ing] a declaratory judgment that his Second Amendment rights have not been infringed." R. at 4 (footnote omitted). The district court dismissed the complaint for failure to overcome sovereign immunity and for

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

failure to establish standing. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Because Mr. Horton proceeds pro se, we construe his arguments liberally, but we "cannot take on the responsibility of serving as [his] attorney in constructing arguments and searching the record." *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). Mr. Horton's appellate briefing offers no basis to question either of the two grounds on which the district court based its dismissal. Rather, he argues he is entitled to relief under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and that "[t]he relevant statutes provide that the person denied the purchase of a gun has a right to a reason[ed] explanation as to the factual and legal basis for the denial." Aplt. Opening Br. at 3.

But Mr. Horton did not invoke FOIA in his complaint, nor did he plead any allegations regarding being thwarted in an attempt to obtain a firearm. And when analyzing the sufficiency of a plaintiff's allegations, "the district court, and consequently this court, are limited to assessing the legal sufficiency of the allegations contained within the four corners of the complaint. Therefore, extraneous arguments in an appellate brief may not be relied upon to circumvent pleading defects." *Jojola v. Chavez*, 55 F.3d 488, 494 (10th Cir. 1995) (citation omitted).

Mr. Horton also asserts "[t]he district court judge is 100% anti-2nd Amendment," "went off on different wild tangents about sovereign immunity and who is the properly named defendant," and "believes that the appellee has a 100% right to grab all the guns owned in the USA," Aplt. Opening Br. at 4. Mr. Horton

cites no evidence and advances no reasoned argument in support of these statements. His failure to challenge either of the two bases for the district court's dismissal waives any such challenge, *Garrett*, 425 F.3d at 841, and his baseless attacks on the integrity of the district judge "disentitle him to [further] review by this court," *id.*

We affirm the judgment of the district court. We deny Mr. Horton's motion to proceed in forma pauperis for failure to "show . . . the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal." *DeBardeleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991).

Entered for the Court

Allison H. Eid
Circuit Judge