

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

August 10, 2021

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

BRIAN OBLAD,

Plaintiff - Appellant,

v.

LEON BUTLER; ROY BICKEL;
FNU SMITH; FNU OKARMA,

Defendants - Appellees.

No. 20-4112
(D.C. No. 2:17-CV-00102-JNP)
(D. Utah)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, Chief Judge, **BRISCOE**, and **BACHARACH**,
Circuit Judges.

This action grew out of Mr. Brian Oblad’s prior imprisonment.

During his imprisonment, Mr. Oblad allegedly

- languished in pain from an impacted wisdom tooth and
- lost a bid for parole because a prison psychologist and a mental health worker had lied to the parole board.

* Oral argument would not help us decide the appeal, so we have decided the appeal based on the record and the parties’ briefs. *See* Fed. R. App. P. 34(a)(2)(C); 10th Cir. R. 34.1(G).

Our order and judgment does not constitute binding precedent except under the doctrines of law of the case, *res judicata*, and collateral estoppel. But the order and judgment may be cited for its persuasive value if otherwise appropriate. *See* Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

Mr. Oblad sued in his third amended complaint for violation of the Constitution and the Americans with Disabilities Act. The district court dismissed these causes of action, reasoning that the defendants enjoyed qualified immunity and Mr. Oblad had failed to state a valid claim.

Though Mr. Oblad appeals, he does not say what he thinks the district court did wrong in dismissing his constitutional and disability claims. The omission is fatal. *See Nixon v. City & Cnty. of Denver*, 784 F.3d 1364, 1366 (10th Cir. 2015) (stating that every appellant must state how the district court erred).

Mr. Oblad instead claims defamation and argues for the first time that qualified immunity is an unconstitutional doctrine. But Mr. Oblad did not claim defamation in the third amended complaint, so we cannot disturb the dismissal for this newly asserted claim. *Firstenberg v. City of Santa Fe*, 696 F.3d 1018, 1024 (10th Cir. 2012). And in district court, he never challenged the constitutionality of qualified immunity. So he forfeited this argument. *Richison v. Ernest Grp., Inc.*, 634 F.3d 1123, 1128 (10th Cir. 2011). Mr. Oblad could seek plain-error review, but he did not do so. So we decline to consider this new challenge to qualified immunity. *See id.*

Affirmed.¹

Entered for the Court

Robert E. Bacharach
Circuit Judge

¹ Though we affirm the dismissal, we grant leave to Mr. Oblad to proceed without prepaying the filing fee. (He still must pay the filing fee, but he need not prepay.)