

February 21, 2008

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

GORDON O. HOFF, SR.,

Petitioner - Appellant,

v.

HARLEY G. LAPPIN, Director of
B.O.P.,

Respondent - Appellee.

No. 07-1519
(D.C. No. 07-cv-02136-ZLW)
(D. Colo.)

ORDER AND JUDGMENT*

Before **KELLY, ANDERSON, and McCONNELL**, Circuit Judges.**

Gordon Hoff, a federal inmate proceeding pro se, appeals the district court’s denial of mandamus relief and his motion to transfer, and dismissal of this action. Mr. Hoff filed a “Petition for Writ of Mandamus” requesting the district court to compel Respondent to alter his sentence. The magistrate judge directed Mr. Hoff to file his pleading on the court’s current form and pay the filing fee or

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

** After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1(G). The cause is therefore ordered submitted without oral argument.

seek leave to proceed in forma pauperis, warning him that the action would be dismissed if these deficiencies were not cured. Mr. Hoff then filed a “Motion Under 28 U.S.C. § 1631” requesting the district court to transfer the action to this court. The district court denied this motion as improper and dismissed the action for failing to cure the deficiencies. Hoff v. Lappin, No. 07-2136, 2007 WL 4269043 (D. Colo. Nov. 30, 2007).

Mr. Hoff was convicted in the Western District of Wisconsin and his conviction was affirmed on appeal. United States v. Meyer, 157 F.3d 1067 (7th Cir. 1998). He unsuccessfully sought relief in this circuit under 28 U.S.C. § 2241 for claims similar to those raised here. Hoff v. Rios, No. 06-1497, Order (10th Cir. May 2, 2007). Mr. Hoff’s appeal is frivolous—as has been stated many times, the Colorado federal district court lacks jurisdiction over these claims. Because Mr. Hoff has failed to raise a non-frivolous argument as required by 28 U.S.C. § 1915(e)(2)(B)(i), we DENY Mr. Hoff’s request to proceed on appeal in forma pauperis and DISMISS the appeal.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge