

March 22, 2010

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

TENTH CIRCUIT

ANTONE L. KNOX,

Plaintiff - Appellant,

v.

CRYSTA PINK-ROBERTS; DEBBIE
ALDRIDGE, NEAMYRA RIDDLE;
AMY THOMAS; KEITH
SHERWOOD; DARREL WILSON;
KRISTI MUNHOLLAND; JESSICA
SMITH; RON PARKER; MARTY
SIRMON; LINDA MORGAN; KEVIN
WARD; JUSTIN JONES; BOBBY
BOONE; DENNIS COTNER;
CHESTER MASON; JUDY
BREWSTER; DOYLE STEWART;
DR. MILLER; DAVID ORMAN,

Defendants - Appellees.

No. 09-7082

(E.D. Oklahoma)

(D.C. No. 6:08-CV-00195-RAW-SPS)

ORDER AND JUDGMENT*

Before **MURPHY, GORSUCH, and HOLMES**, Circuit Judges.

*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

Antone L. Knox appeals an order of the district court dismissing his 42 U.S.C. § 1983 claim for failure to exhaust, denying his request for a temporary restraining order and preliminary injunction, and denying his motion to amend. Exercising jurisdiction pursuant to 28 U.S.C. § 1291, this court **affirms**.

In what the district court appropriately described as “an extremely long and rambling complaint,” Knox asserted multiple claims against numerous staff members of the Oklahoma State Prison in McAlester, Oklahoma. The district court concluded that because the record conclusively established Knox had failed to properly exhaust his administrative remedies, the defendants were entitled to dismissal pursuant to 42 U.S.C. § 1997e(a). Upon de novo review, this court affirms the district court’s order of dismissal for substantially those grounds set out in the district court’s order dated September 1, 2009. *Jernigan v. Stuchell*, 304 F.3d 1030, 1032 (10th Cir. 2002) (holding that dismissals pursuant to § 1997e(a) are reviewed de novo). Furthermore, in light of the conclusory nature of Knox’s rambling complaint, the district court was well within its discretion to deny injunctive relief. *Blango v. Thornburgh*, 942 F.2d 1487, 1493 (10th Cir. 1991). Likewise, because Knox’s motion to file an amended complaint utterly

failed to demonstrate how the proposed amendments related back to the original complaint and failed to make any showing the proposed amendments would not be subject to dismissal for failure to exhaust, the district court properly denied Knox's motion to amend. *Peterson v. Grisham*, 594 F.3d 723, 731 (10th Cir. 2010) ("Although we review a district court's decision to deny a motion to amend . . . for abuse of discretion, when the denial is based on a determination that amendment would be futile, our review for abuse of discretion includes de novo review of the legal basis for the finding of futility." (quotation omitted)).

The order of the district court is hereby **AFFIRMED**. Knox's motion titled "Notice of Emergency Official Complaint Against Chief Circuit Judge Robert H. Henry," which this court construes as a motion seeking recusal of Chief Judge Henry, is **DENIED AS MOOT** given that Chief Judge Henry is not a member of the panel randomly assigned to dispose of this appeal. All other pending motions are **DENIED**.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge