

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

January 14, 2011

Elisabeth A. Shumaker
Clerk of Court

ERIC LEVANTER DeMILLARD,

Plaintiff-Appellant,

v.

NO NAMED DEFENDANT,

Defendant-Appellee.

No. 10-1536

(D.C. No. 1:10-MC-00069-ZLW)

(D. Colo.)

ORDER AND JUDGMENT*

Before **LUCERO, EBEL, and GORSUCH**, Circuit Judges.

Eric Levanter DeMillard asked the district court to issue an arrest warrant for a person who Mr. DeMillard claims kidnapped his son. The district court dismissed Mr. DeMillard's case, holding that he lacked standing to pursue a criminal prosecution, a result Mr. DeMillard now appeals. We, however, discern no error in the district court's reasoning or result and so affirm. It is settled law that "in American jurisprudence, at least, a private citizen lacks a judicially

* After examining appellant's brief and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2) and 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 This order and judgment is not binding precedent except under the doctrines of law of the case, *res judicata*, and collateral estoppel.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.

cognizable interest in the prosecution or nonprosecution of another.” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973); *see also Doyle v. Okla. Bar Ass’n*, 998 F.2d 1559, 1566 (10th Cir. 1993). Efforts to initiate a criminal proceeding are properly directed to appropriate Executive branch officials, not the Judiciary through private prosecutions. In addition, we deny Mr. DeMillard’s request to proceed *in forma pauperis* because he fails to present a reasoned, nonfrivolous argument on appeal. *See McIntosh v. U.S. Parole Comm’n*, 115 F.3d 809, 812 (10th Cir. 1997).

ENTERED FOR THE COURT

Neil M. Gorsuch
Circuit Judge