

July 22, 2014

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

TENTH CIRCUIT

ERIC LEVANTER DeMILLARD,

Plaintiff - Appellant,

v.

RICHARD BURTON, Wyoming
Department of Corrections Medium
Correctional Institution Therapist; DR.
HARBANS HANS, Wyoming
Department of Corrections Medium
Correctional Institution Psychiatrist;
STEVE HARGETT, Warden,
Wyoming Department of Corrections
Medium Correctional Institution
Warden; NEICOLE MOLDEN,
Wyoming Department of Corrections
Medium Correctional Institution Unit
Manager; RUBY ZIEGLER, Wyoming
Department of Corrections Medium
Correctional Institution Deputy
Warden; JOANNA TRUSSEL,
Wyoming Department of Corrections
Medium Correctional Institution
Licensed Clinical Social Worker;
CAROL RILEY, Wyoming
Department of Corrections Medium
Correctional Institution Law Librarian;
STEPHANIE SCHWARTZ, Wyoming
Department of Corrections Medium
Correctional Institution Psychiatric
Technician; DEBBIE LEE, Wyoming
Department of Corrections Medium
Correctional Institution Psychiatric
Technician; NATHAN JENSEN,
Wyoming Department of Corrections
Medium Correctional Institution

No. 14-8032
(D.C. No. 2:14-CV-00016-ABJ)
(D. Wyo.)

Psychiatric Technician; DOLLY BIRKLE, Wyoming Department of Corrections Medium Correctional Institution Case Worker; MARCUS HAYMAN, Wyoming Department of Corrections Medium Correctional Institution Case Worker; JESSICA MUNOZ, Wyoming Department of Corrections Medium Correctional Institution Case Worker; TERESA G. PENNINGTON, Wyoming Department of Corrections Medium Correctional Institution Therapist; PAUL CORNISH, Wyoming Department of Corrections Medium Correctional Institution Officer; LEN DIMAS, Wyoming Department of Corrections Medium Correctional Institution Sergeant; JERRY GARZA, Wyoming Department of Corrections Medium Correctional Institution Sergeant; KYLE WILDEMAN, Wyoming Department of Corrections Medium Correctional Institution Sergeant; CARRIE CARRUTHERS, Wyoming Department of Corrections Medium Correctional Institution Captain; STEVEN CHULSKI, Wyoming Department of Corrections Medium Correctional Institution Corporal; DANIEL ANGELL, Wyoming Department of Corrections Medium Correctional Institution Officer; IAN COTTRELL, Wyoming Department of Corrections Medium Correctional Institution Officer; RENE ELIZARDO, Wyoming Department of Corrections Medium Correctional Institution Officer; JOSEPH GAUL, Wyoming Department of Corrections Medium Correctional Institution

Officer; ELLIOTT HOFFMAN,
Wyoming Department of Corrections
Medium Corrections Institution
Officer; ADAM KENNEDY,
Wyoming Department of Corrections
Medium Corrections Institution
Officer; CAMERON LARSON,
Wyoming Department of Corrections
Medium Corrections Institution
Officer; JHONATHAN McCLAIN,
Wyoming Department of Corrections
Medium Corrections Institution
Officer; WESLEY MILLER, Wyoming
Department of Corrections Medium
Corrections Institution Officer;
KENNETH SMITH, Wyoming
Department of Corrections Medium
Corrections Institution Officer;
MICHAEL WISEMAN, Wyoming
Department of Corrections Medium
Corrections Institution Officer;
MICHELLE WOLFLEY, Wyoming
Department of Corrections Medium
Corrections Institution Officer;
MELODY NORRIS, Wyoming
Department of Corrections Medium
Corrections Institution Records
Manager; MICHAEL McMANIS,
Wyoming Department of Corrections
Medium Corrections Institution
Lieutenant; PAUL METEVIER,
Wyoming Department of Corrections
Medium Corrections Institution
Corporal; JEFFREY CAMPBELL,
Wyoming Department of Corrections
Medium Corrections Institution
Officer; SCOTT LEEVER, Wyoming
Department of Corrections Medium
Corrections Institution Team Leader;
EARL UMBENHOWER, Wyoming
Department of Corrections Medium

Corrections Institution Recreation
Manager, individually and in their
official capacities,

Defendants - Appellees.

ORDER AND JUDGMENT*

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

Eric DeMillard, a prisoner in Wyoming, filed a *pro se* complaint against various prison officials under 42 U.S.C. § 1983. In it, Mr. DeMillard sought \$8 billion from the defendants who, he alleged, kidnaped and tortured him. The district court noted that Mr. DeMillard had been incarcerated for violating the terms of his parole. Because Mr. DeMillard offered nothing to dispute this, no allegations or arguments to support his claim, the district court dismissed Mr. DeMillard’s complaint without prejudice, deeming it “unquestionably frivolous.”

We see no reversible error here. Mr. DeMillard’s brief identifies no flaw in the district court’s reasoning. Neither do we discern any after our own independent examination. Accordingly, for the reasons given by the district

* After examining the briefs and appellate record, this panel has determined unanimously to grant the parties’ request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f) 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.

court, we deny Mr. DeMillard's motion to proceed *in forma pauperis* and this appeal is dismissed. The three-strikes provision of the PLRA applies to Mr. DeMillard and requires us to assess a strike against him. *See* 28 U.S.C. § 1915(g). That is in addition to the strikes Mr. DeMillard previously incurred (one when the district court dismissed his complaint in this case for failure to state a claim; the other when a district court dismissed a prior complaint of Mr. DeMillard as legally frivolous.). *See DeMillard v. Municipality of Denver*, No. 10-cv-002536-BNB, 2011 WL 900827, at *4 (D. Colo. Mar. 11, 2011). Mr. DeMillard is reminded he must pay his filing fee in full.

Entered for the Court

Per Curiam