

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

July 9, 2015

Elisabeth A. Shumaker
Clerk of Court

MICAH JAMES BLACKFEATHER,

Petitioner - Appellant,

v.

BOULDER COUNTY COMBINE
COURTS; ERIKA BAASTEN, D.A.; THE
STATE OF COLORADO,

Respondents - Appellees.

No. 14-1395
(D.C. No. 1:14-CV-02211-LTB)
(D. Colo.)

ORDER DENYING CERTIFICATE OF APPEALABILITY*

Before **GORSUCH, McKAY**, and **BACHARACH**, Circuit Judges.

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.

Petitioner Micah Blackfeather, a pro se detainee presently confined in the Colorado Mental Health Institute in Pueblo, Colorado, pending state criminal proceedings, seeks a certificate of appealability to challenge the district court's dismissal of his habeas petition. Petitioner challenged his confinement by filing a

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

pro se “motion/petition to be released from custody” on August 7, 2014. In his motion, Petitioner set out numerous reasons why his confinement was unlawful, including that he was confined to a mental institution based on fraudulent police reports and tampered evidence.

The magistrate judge noted several deficiencies with Petitioner’s filing and ordered him to cure the designated deficiencies within thirty days, advising him that otherwise the action would be dismissed without further notice. Specifically, the magistrate judge ordered Petitioner to use court-approved forms to file an Application for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and to either pay the filing fee for a habeas corpus action or file a properly supported Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. Petitioner failed to respond to this order, and the district court dismissed the action without prejudice. Petitioner then filed a timely appeal.

Petitioner makes no attempt to excuse his failure to comply with the magistrate judge’s order to cure the deficiencies or explain why it was impossible to do so. After reviewing the record on appeal, we conclude that reasonable jurists would not debate whether the district court’s dismissal of Petitioner’s motion was correct.

Accordingly, we **DENY** Petitioner’s request for a certificate of appealability

and **DISMISS** the appeal. We **GRANT** Appellant's motion to proceed *in forma pauperis* on appeal.

Entered for the Court

Monroe G. McKay
Circuit Judge