

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

OCT 18 2004

PATRICK FISHER
Clerk

MAHINDER S. UBEROI,

Plaintiff-Appellant,

v.

CITY OF BOULDER;
K. YOKOMIZO-BURTON; DON
SPICELY; GRETCHEN KING,

Defendants-Appellees.

No. 03-1498
(D.C. No. 01-K-2151 (MJW))
(D. Colo.)

MAHINDER S. UBEROI,

Plaintiff-Appellant,

v.

HENRY F. ANTON; MAUREEN
JOHNSON EDIGER; SUSAN C.
KIRK; TOM LUCERO; JIM
MARTIN; NORWOOD L. ROBB;
JERRY G. RUTLEDGE; ROBERT
SIEVERS; PETER STEINHAUER;
JOHN BUECHNER; RICHARD
BYYNY; PHILLIP DISTEFANO;
ROSS COROTIS; MICHAEL
LIGHTNER; WILLIAM M.
MARINE; THOMAS J.
NAPIERKOWSKI; ROBERT L.
LORCH; ROBLEY D. RHINE,

Defendants-Appellees.

No. 03-1500
(D.C. No. 02-K-301 (BNB))
(D. Colo.)

ORDER AND JUDGMENT *

Before **McCONNELL** , **HOLLOWAY** , and **PORFILIO** , Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of these appeals. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The cases are therefore ordered submitted without oral argument.

Plaintiff Mahinder S. Uberoi appeals the district court's dismissal of his two civil complaints for failure to comply with standing orders requiring him to retain a licensed attorney, and its denial of several post-dismissal motions challenging the dismissals. The two appeals have been consolidated for procedural purposes, and we affirm.

Because of the numerous frivolous and vexatious suits plaintiff had filed pro se, the United States District Court for the District of Colorado entered a permanent injunction against him in 1989 prohibiting him from proceeding as the proponent of any civil claim in the federal district of Colorado without

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

representation by a licensed attorney. The injunction was upheld on appeal. *Bd. of Regents v. Uberoi*, Nos. 89-1117, 89-1304, 89-1337, slip. op. (10th Cir. May 25, 1990) (unpublished disposition). In 2002, plaintiff, proceeding pro se, filed the two civil complaints now at issue. The district court denied plaintiff's requests to vacate or modify the 1989 permanent injunction, ruling the injunction remained valid and enforceable. The district court gave plaintiff thirty days to retain counsel or face dismissal of his complaints. Plaintiff appealed that order, and this court affirmed. *Uberoi v. City of Boulder*, 64 Fed. Appx. 169 (10th Cir. May 1, 2003) (unpublished disposition).

The district court then gave plaintiff an additional thirty days to retain counsel. When plaintiff failed to do so, the court dismissed the two complaints. Plaintiff filed three post-dismissal motions: the first sought to amend the order of dismissal because he was unable to retain counsel, the second sought to disqualify the district court judge, and the third sought to select a judge from a different federal judicial district to hear the disqualification motion. The district court denied all three motions.

This court reviews a dismissal for noncompliance with court orders for abuse of discretion. *See Jones v. Thompson*, 996 F.2d 261, 264 (10th Cir. 1993). Plaintiff continues to relitigate the propriety of the injunction, raising the same issues and arguments previously rejected in his prior appeals. As this court has

held, these arguments are foreclosed by the doctrine of collateral estoppel. *See Uberoi* , 64 Fed. Appx. at 173. We reject plaintiff's accusation that Judge Kane should have disqualified himself under 28 U.S.C. § 455, because no reasonable factual basis exists for calling the judge's impartiality into question. *See United States v. Cooley* , 1 F.3d 985, 993 (10th Cir. 1993).

The judgment of the district court is AFFIRMED.

Entered for the Court

John C. Porfilio
Circuit Judge