

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

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**MAY 13 2004**

**PATRICK FISHER**  
Clerk

THOMAS CLELLAND,

Plaintiff-Appellant,

v.

JEFF GLINES; JAMES R. PRATT;  
STATE OF KANSAS; CRAWFORD  
COUNTY KANSAS COURT  
SERVICES OFFICE; CRAWFORD  
COUNTY KANSAS ATTORNEYS  
OFFICE,

Defendants-Appellees.

No. 03-3260  
(D.C. No. 02-CV-2223-KHV)  
(D. Kan.)

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**ORDER AND JUDGMENT** \*

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Before **HENRY** , **MURPHY** , and **TYMKOVICH** , Circuit Judges.

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After examining the briefs and 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); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

Thomas Clelland, appearing pro se, appeals from the district court's orders granting appellee Jeffrey Glines's motion to stay discovery, appellees' motions to dismiss, appellee Crawford County Attorney's Office's motion to set aside default judgment, and denying Mr. Clelland's motion for reconsideration of the court's June 18, 2003 order. <sup>1</sup> Mr. Clelland raises eighteen issues in his brief, which the appellees have distilled into the following seven issues: 1) Did the district court improperly dismiss Mr. Clelland's amended complaint; 2) Did the district court abuse its discretion by staying discovery; 3) Did the district court abuse its discretion by setting aside the entry of default against the County Attorney's Office; 4) Did the district court abuse its discretion by declining to appoint an attorney to represent Mr. Clelland; 5) Did the district court err in not expressly ruling on all of Mr. Clelland's filings; 6) Did the district court abuse its discretion by declining to recuse; 7) Did the district court err in its review of Mr. Clelland's allegations of misconduct by counsel.

We review de novo a district court's dismissal for lack of subject matter jurisdiction, *U.S. West, Inc. v. Tristani*, 182 F.3d 1202, 1206 (10th Cir. 1999), and a district court's dismissal for failure to state a claim for relief under

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<sup>1</sup> Although we recognize that Mr. Clelland is proceeding pro se, he failed to attach copies of the relevant district court orders as required by 10th Cir. R. 28.2(A)(1). We admonish appellees' counsel for not complying with Rule 28.2(B), which requires that the appellees' brief include these rulings if the appellant fails to include them in his brief.

Fed. R. Civ. P. 12(b)(6), *Sutton v. Utah State School for Deaf & Blind* , 173 F.3d 1226, 1236 (10th Cir. 1999). We review for abuse of discretion the district court's rulings staying discovery, *see GWN Petroleum Corp. v. OK-Tex Oil & Gas, Inc.* , 998 F.2d 853, 858 (10th Cir. 1993), setting aside the entry of default, *see Ashby v. McKenna* , 331 F.3d 1148, 1152 (10th Cir. 2003), declining to appoint counsel, *see Rucks v. Boergermann* , 57 F.3d 978, 979 (10th Cir. 1995), and declining to recuse, *see Bryce v. Episcopal Church in the Diocese of Colorado* , 289 F.3d 648, 659 (10th Cir. 2002).

Having reviewed the briefs, the record, and the applicable law pursuant to the above-mentioned standards, we conclude that the district court correctly decided this case. We therefore AFFIRM the challenged decisions for substantially the same reasons stated by the district court in its orders of August 7, 2002, December 17, 2002, January 15, 2003, April 11, 2003, June 18, 2003 and August 15, 2003.

Mr. Clelland's request to proceed in forma pauperis is DENIED because he has not presented a reasoned, nonfrivolous argument on appeal. *See McIntosh v.*

*United States Parole Comm'n* , 115 F.3d 809, 812-13 (10th Cir. 1997). All other motions filed by Mr. Clelland are DENIED.

Entered for the Court

Michael R. Murphy  
Circuit Judge