

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

June 4, 2007

Elisabeth A. Shumaker
Clerk of Court

DARRELL ELLIS; GARY
PENNINGTON; JOHN TAYLOR;
JAMES WALLACE WOLFE; LARRY
CHANEY; ARLEY LEE DUNCAN,;

Plaintiffs-Appellants,

v.

JAMES M. BROWN, SR., Oklahoma
Pardon & Parole Board; CLINTON
JOHNSON, Oklahoma Pardon &
Parole Board; RICHARD L.
DUGGER, Oklahoma Pardon & Parole
Board; SUSAN B. LOVING,
Oklahoma Pardon & Parole Board;
LYNNELL HARKINS, Oklahoma
Pardon & Parole Board; TERRY
JENKS, Oklahoma Pardon & Parole
Board,

Defendants-Appellees.

No. 07-6024

(W.D. Oklahoma)

(D.C. No. 06-CV-1156-R)

ORDER AND JUDGMENT*

Before **KELLY, MURPHY, and O'BRIEN**, Circuit Judges.

*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel.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

After examining appellant’s brief and the appellate record, this court 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.

Proceeding *pro se*, Darrell Ellis and five other Oklahoma state prisoners (“Plaintiffs”) appeal the district court’s *sua sponte* dismissal of the civil rights complaint they brought pursuant to 42 U.S.C. § 1983. In the complaint, Plaintiffs challenged Oklahoma’s parole procedures. In a comprehensive Report and Recommendation, the federal magistrate judge concluded Plaintiffs were seeking to relitigate issues and claims that had already been decided unfavorably to them by the Oklahoma state courts. The magistrate recommended dismissing Plaintiffs’ complaint in its entirety for failure to state a claim upon which relief may be granted.

The magistrate judge clearly advised Plaintiffs that the failure to make a timely objection to the Report and Recommendation waives the right to appellate review of the factual and legal issues addressed therein. Only Plaintiff Ellis filed an objection to the Report and Recommendation.¹ Ellis asserted the Oklahoma

¹Ellis purported to file objections on behalf of himself and plaintiffs Pennington, Taylor, Chaney, Wolfe, and Duncan. This court has held, however, that “[a] litigant may bring his own claims to federal court without counsel, but not the claims of others.” *Fymbo v. State Farm Fire & Cas. Co.*, 213 F.3d 1320, 1321 (10th Cir. 2000). Because the issues raised in this appeal come under our firm waiver rule, we **dismiss** the appeals of Pennington, Taylor, Chaney, Wolfe, (continued...)

courts failed to provide him with a full and fair opportunity to litigate his claims. Concluding to the contrary, the district court adopted the magistrate judge's recommendation and dismissed the complaint.

We have reviewed the record, the appellate brief, and the applicable law and can discern no reversible error by the district court. Accordingly, the dismissal of Ellis' § 1983 complaint is **affirmed** for substantially the reasons stated in the Report and Recommendation dated November 28, 2006, and the district court's order dated January 3, 2007.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge

¹(...continued)
and Duncan. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).