

UNITED STATES COURT OF APPEALS

Filed 4/24/96

TENTH CIRCUIT

LARRY A. BRYAN,

Plaintiff - Appellant,

v.

E. JAY GREENO and JOHN COWLES,
Court-Appointed Defense Counsels,

Defendants - Appellees.

No. 95-3235

(D.C. No. 95-CV-3223)

(D. Kan.)

ORDER AND JUDGMENT*

Before PORFILIO, McKAY and KELLY, Circuit Judges.

After examining the briefs and the 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); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Plaintiff Larry A. Bryan, proceeding pro se and in forma pauperis, brought this 42 U.S.C. § 1983 action alleging that his court-appointed attorneys provided ineffective

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

assistance of counsel in his state court conviction. He also alleges that his attorneys conspired against him with the state. The district court dismissed the action as legally frivolous pursuant to 28 U.S.C. § 1915(d) because of Mr. Bryan's conclusory allegations and because Mr. Bryan had not first invalidated his state court conviction as required by Heck v. Humphrey, 114 S. Ct. 2364 (1994). The court then denied Mr. Bryan leave to proceed on appeal in forma pauperis. We have reviewed the record and have determined that Mr. Bryan fails to make a sufficient argument on the law or on the facts to warrant granting him leave to appeal in forma pauperis. Thus, Mr. Bryan's motion to proceed in forma pauperis is denied. The appeal is DISMISSED.

DISMISSED. The mandate shall issue forthwith.

Entered for the Court

Monroe G. McKay
Circuit Judge