

**UNITED STATES COURT OF APPEALS**

**Filed 8/15/96**

**TENTH CIRCUIT**

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JERRY L. HUNT,

Plaintiff-Appellant,

v.

HUTCHINSON CORRECTIONAL  
FACILITY,

Defendant-Appellee.

No. 96-3092  
(D.C. No. 96-CV-3048)  
(Kansas)

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**ORDER AND JUDGMENT\***

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Before **SEYMOUR**, Chief Judge, **KELLY** and **LUCERO**, 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); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

Mr. Jerry L. Hunt filed this pro se action under 42 U.S.C. § 1983, alleging

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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 10th Cir. R. 36.3.

that the Hutchinson Correctional Facility refused to give him proper medical treatment in violation of the Eighth Amendment. The district court dismissed his complaint for failure to state a claim and denied him leave to proceed in forma pauperis on this appeal.

This matter is before the court on Mr. Hunt's motion for leave to proceed on appeal without prepayment of costs or fees. In order to succeed on his motion, Mr. Hunt must show both: (1) a financial inability to pay the required filing fees and (2) the existence of a nonfrivolous argument on the law and facts in support of the issues raised on appeal. See 28 U.S.C. § 1915(a); Coppedge v. United States, 369 U.S. 438 (1962); DeBardeleben v. Quinlan, 937 F.2d 502 (10th Cir. 1991).

We conclude that Mr. Hunt can make no rational argument on the law or facts in support of the issues raised on appeal. Therefore, the motion for leave to proceed on appeal without prepayment of costs or fees is denied.

ENTERED FOR THE COURT

Stephanie K. Seymour  
Chief Judge