

UNITED STATES COURT OF APPEALS
Filed 4/22/96TENTH CIRCUIT

JAMES WALLACE WOLFE,)	
)	
Plaintiff-Appellant,)	
)	
v.)	
)	
)	No. 96-7003
)	(D.C. No. CV-95-185)
)	(E.D. Okl.)
DOUGLAS GABBARD, III, District Judge,)	
)	
Defendants-Appellees.)	

ORDER AND JUDGMENT*

Before TACHA, BALDOCK, and BRISCOE, Circuit Judges.

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 case is therefore ordered submitted without oral argument.

Plaintiff James Wallace Wolfe, a pro se inmate, appeals the dismissal of his 42 U.S.C. § 1983 action, contending the district court violated the Fourth, Fifth, and Fourteenth Amendments by not conducting a post-competency determination hearing.

Plaintiff sought injunctive relief, asking the district court to direct defendant Douglas Gabbard III, a state district judge, to conduct a post-competency hearing.

Defendant moved to dismiss for insufficient service of process because the summons was

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

not served with a copy of the complaint, and plaintiff personally mailed copies of the summons. The district court found that even if service was proper, plaintiff's action would fail. The court dismissed for lack of subject matter jurisdiction, finding defendant was entitled to absolute immunity as a state district court judge, Van Sickle v. Holloway, 791 F.2d 1431, 1435 (10th Cir. 1986), and that federal courts have no authority to direct state courts in the performance of their duties, id. at 1436 n. 5.

We have reviewed the briefs on appeal, the pleadings, and the district court's order, and have carefully examined the entire record on appeal. Based upon our review of the record, we find no reversible error and affirm the dismissal of plaintiff's action for substantially the same reasons set forth in the district court's order.

AFFIRMED. The mandate shall issue forthwith.

Entered for the Court

Mary Beck Briscoe
Circuit Judge