

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

SEP 18 1997

PATRICK FISHER
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOHN MITCHEL WHITE, a/k/a John
Taurus Wolf,

Defendant-Appellant.

No. 97-1074
(D.C. No. 96-CR-243-S)
(District of Colorado)

ORDER AND JUDGMENT*

Before **SEYMOUR**, Chief Judge, **PORFILIO** and **MURPHY**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f) and 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

After pleading guilty to a two-count superseding indictment and receiving a sentence of twenty-four months' imprisonment followed by a three-year term of

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

supervised release, Mr. White filed a jargon ridden motion under Rule 60(b) of the Federal Rules of Civil Procedure for the vacation of the judgment of conviction. (His motion specifically asserted he did not invoke the provisions of 28 U.S.C. § 2255.) He also sought leave to file criminal proceedings against an Assistant United States Attorney. The district court denied the motion on the grounds the rules of civil procedure provided no remedy in a criminal case and that Mr. White had not asserted a “proper claim” for the filing of a “criminal information.” Mr. White appeals, and we affirm.

The district court correctly concluded, despite Mr. White’s erudite and creative reading of the rules and the Constitution, the rules of civil procedure have no applicability in a criminal case; therefore, Mr. White failed to make a claim that would permit the court to grant him relief. Moreover, the court correctly denied his attempt to secure a criminal prosecution because Mr. White has no standing to file such an action.

AFFIRMED.

ENTERED FOR THE COURT

John C. Porfilio
Circuit Judge