

**APR 8 1998**

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

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EDWARD VAUGHN KELLER,

Plaintiff-Appellant,

v.

WILLIAM ALBRIGHT,

Defendant-Appellee.

No. 97-4205  
(Dist. of Utah)  
(D.C. No. 94-CV-579-S)

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**ORDER AND JUDGMENT\***

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Before **BALDOCK**, **EBEL**, and **MURPHY**, 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 court therefore honors the parties' requests and orders the cause submitted without oral argument.

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata and collateral estoppel.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

This court has conducted a *de novo* review of the parties' appellate briefs and contentions, the district court's Memorandum Decision, and the entire record on appeal. Based upon that *de novo* review, we affirm for substantially those reasons set out in the district court's thorough Memorandum Decision dated November 17, 1997.

The judgment of the United States District Court for the District of Utah is hereby **AFFIRMED** .

ENTERED FOR THE COURT

Michael R. Murphy  
Circuit Judge