

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

MAY 27 1998

PATRICK FISHER
Clerk

THE CADLE COMPANY,

Plaintiff-Appellant,

v.

MIKE RUSSELL, Deceased; the heirs,
devisees and legatees, whether known
or unknown of the decedent, Mike
Russell; JOHN M. RUSSELL;
MYRTESS RUSSELL; JAMES
RUSSELL; MICHAEL RUSSELL;
ERNEST RUSSELL; MARCHAELA
THOMASON; OKLAHOMA TAX
COMMISSION; BRENDA D.
RUSSELL,

Defendants-Appellees.

No. 97-7068
(D.C. No. 96-CV-246-P)
(E.D. Okla.)

ORDER AND JUDGMENT*

Before **PORFILIO**, **BARRETT**, and **HENRY**, Circuit Judges.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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

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.

The Cadle Company, an assignee of the Federal Deposit Insurance Corporation, brought this action seeking judgment against defendants for payment of the balance due under a promissory note executed by Mike Russell, deceased, and foreclosure of a mortgage securing the note. After a nonjury trial conducted by a magistrate judge pursuant to 28 U.S.C. § 636(c), judgment was entered in favor of defendants, based on the expiration of the applicable statute of limitations.

We have carefully reviewed the parties' briefs on appeal, the magistrate judge's findings of fact and conclusions of law, and the entire record before this court. We discern no reversible error and AFFIRM for substantially those reasons set forth in the Findings of Fact and Conclusions of Law, dated June 11, 1997.

Entered for the Court

John C. Porfilio
Circuit Judge