

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

DAN YATES, *an individual,*

Appellant,

v.

ANGELA ARKIN, *in her individual and official capacities,*

MARY J. MULLARKEY, *in her official capacity*

DOUGLAS COUNTY, *a municipality*

DORIS TRUHLAR, *an individual,*

TRUHLAR AND TRUHLAR, L.L.C., *a Colorado Law Firm,*

ELODE BRODBECK, *an individual,*

THE CHILD AND FAMILY CENTER, INC., *a Colorado corporation,*

CLAIRE PURCELL, *in her individual and professional capacities, and*

LOUISE YATES, *an individual,*

Appellees.

United States Court of Appeals  
for the Tenth Circuit  
FILED  
FEB 1 2007  
CLERK

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**PRO SE APPELLANT’S RESERVATION OF RIGHTS PURSUANT TO  
ARTICLE III**

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The Appellant’s position as set forth in his Motion to Strike Appellee’s Joint Answer Brief As Submitted (hereinafter “Motion to Strike”) is sound. The Appellees have not referenced the record in their Answer Brief, as mandated by Fed.R.App.P. 10 and 28, and 10th Cir. R. 10, 28.1 and 28.2. The Appellant cannot invent references to the record in the absence of proper citations. *See United States v. Rodriguez - Aguirre*, 108 F.3d 1228, 1237, n. 8 (10th Cir. 1997). His position is consistent with federal law.

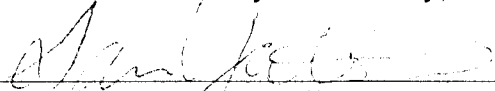
This Court has not ruled on the Appellant’s Motion to Strike. This Court continues to engage in the diminution of the Appellant’s record on appeal. [Attachment A, *Order*, dated 1/31/07.] The Appellant is not bound by Chief Deputy Clerk, Douglas E.

Cressler's Order. Clerk Douglas E. Cressler cannot rule on substantive issues relating to this Court's Rules and the Appellant's Due Process rights. Appellant established this on January 29, 2007 upon filing his Motion to Strike. Clerk Douglas E. Cressler's Order further demonstrates that procedural anarchy is now the order of the day. Gregory C. Sisk, *Article: The Balkanization of Appellate Justice: The Proliferation of Local Rules in the Federal Circuits*, 68 U. Colo. L. R. 1, 2 (Winter 1997). Clerk Douglas E. Cressler unlawfully assumes judicial authority. This Court has already violated 18 U.S.C. § 2076 by failing to sanction the 10<sup>th</sup> Circuit District Court of Colorado for its failure to file Appellant's Record on Appeal in accordance with federal law. This Court has violated similar laws by delegating Appellant Motion to Strike to Clerk Douglas E. Cressler.

This Court violates the Appellant's rights by ensuring that the Appellant's record on appeal is not preserved. This Court's selective enforcement of its rules has prejudiced the Appellant. This Court's customs, practices and procedures do not meet even minimal due process standards. The 10<sup>th</sup> Circuit Court of Appeals continues to procedurally distort and degrade the *pro se* Appellant's record to his detriment. This Court must construe pleadings so as to do substantial justice in favor of the Appellant. *See e.g. Scherping v. Commissioner*, 747 F.2d 478, 480 (8<sup>th</sup> Cir. 1984). The *pro se* Appellant is impaired by the 10<sup>th</sup> Circuit Court of Appeals' selective application of its rules. *See Traguth v. Zuck*, 710 F.2d 90, 95 (2<sup>nd</sup> Cir. 1983). This Court's continued deference to and duplication of Magistrate Boyd N. Boland and District Court Judge Walker D. Miller's procedural errors premised on Chief Judge Lewis T. Babcock's void local rule is error. The Appellant asserts his right to litigate in accordance with Article III of the United States Constitution.

**WHEREFORE**, the Appellant reserves his right to reply pending a ruling on his Motion to Strike Appellees' Joint Answer Brief as Submitted by a judicial officer in accordance with Article III of the United States Constitution.

Respectfully submitted this 5<sup>th</sup> Day of February, 2007, by:

  
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Dan Yates, *pro se* Appellant

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**CERTIFICATE OF MAILING**

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I hereby certify that a true and correct copy of the foregoing document: **PRO SE APPELLANT'S RESERVATION OF RIGHTS PURSUANT TO ARTICLE III**, was filed via hand-delivery, facsimile, ECF, e-mail and/or placed in the United States mail, postage prepaid, addressed to the following at their respective addresses on this 5<sup>th</sup> Day of February, 2007:

United States Court of Appeals for the Tenth Circuit (*via Hand-Delivery*)  
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1823 Stout St.  
Denver, CO 80257

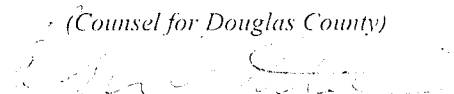
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