

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 09-2628

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Mitchell David Holbach,

Appellant,

v.

William W. McLees,

Appellee.

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Appeal from the United States  
District Court for the  
District of North Dakota.

[UNPUBLISHED]

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Submitted: February 16, 2010

Filed: February 23, 2010

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Before BYE, RILEY, and SHEPHERD, Circuit Judges.

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PER CURIAM.

North Dakota inmate Mitchell David Holbach appeals the district court's<sup>1</sup> preservice dismissal without prejudice of his 42 U.S.C. § 1983 action. Upon de novo review, see Cooper v. Schriro, 189 F.3d 781, 783 (8th Cir. 1999) (per curiam), we agree with the district court that the defendant was entitled to absolute judicial immunity from suit, see Penn v. United States, 335 F.3d 786, 789 (8th Cir. 2003) (holding that judges are entitled to absolute immunity from suit for all judicial actions

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<sup>1</sup>The Honorable Daniel L. Hovland, United States District Judge for the District of North Dakota, adopting the report and recommendations of the Honorable Charles S. Miller, Jr., United States Magistrate Judge for the District of North Dakota.

that are not taken in the complete absence of jurisdiction). We affirm. See 8th Cir. R. 47B.

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