

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

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No. 09-3807

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Mitchell David Holbach,

Appellant,

v.

Attorney General for the State of  
North Dakota; Attorney General for the  
United States of America,

Appellees.

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\* Appeal from the United States  
\* District Court for the  
\* District of North Dakota.  
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\* [UNPUBLISHED]  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 civil rights action. Upon de novo review, see Cooper v. Schriro, 189 F.3d 781, 783 (8th Cir. 1999) (per

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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.

curiam), we agree with the district court that the complaint failed to state a claim. We affirm. See 8th Cir. R. 47B.

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