

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 00-7074

September Term, 1999

99cv03441

Filed On: August 16, 2000 [536748]

August 16, 2000 [536748]

C. Rodney Yoder,
Appellant

v.

Thomas W. Ewing,
Appellee

BEFORE: Rogers, Tatel, and Garland, Circuit Judges

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the appellant's brief. The court has determined that the issues presented occasion no need for an opinion. See Fed. R. App. P. 36; D.C. Cir. Rule 36(b). It is

ORDERED and ADJUDGED that the district court's orders filed December 27, 1999 and February 22, 2000 be affirmed. Appellant failed to state a claim under 42 U.S.C. § 1985(3) because he did not allege the purported conspiracy was motivated by a racial or class-based discriminatory animus. See Bray v. Alexandria Women's Health Clinic, 506 U.S. 263, 268-69 (1993) (citing Griffin v. Breckenridge, 403 U.S. 88, 102 (1971)); Hoai v. Vo, 935 F.2d 308, 314 (D.C. Cir. 1991). Moreover, because appellant may express any grievances to his congressman in writing, he has failed to state a claim under section 1985(3) based on a violation of his right to petition for redress. See Jackson v. City of Columbus, 194 F.3d 737, 748-49 (6th Cir. 1999) (where plaintiff has adequate remedies, he is not impeded in exercising his right to petition for redress). Regarding appellant's contention that he should have been allowed to amend his complaint, appellant never sought to amend his complaint in district court, see Confederate Memorial Ass'n, Inc. v. Hines, 995 F.2d 295, 299 (D.C. Cir. 1993), and he does not now indicate the facts that he would allege if allowed to amend his complaint. Finally, it appears that amendment would have been futile. Cf. Baker v. Director, United States Parole Comm'n, 916 F.2d 725 (D.C. Cir. 1990) (per

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curiam) (affirmance proper where it is clear appellant could not possibly prevail).

The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam