

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

**No. 02-5129**

**September Term, 2002**

**(01cv01355)**

**Filed On: May 15, 2003** [749437]

Richard Allen Rosell, On behalf of himself  
and similarly situated employees of the  
Federal Energy Regulatory Commission,  
Appellant

v.

Pat Wood III, Chairman,  
Federal Energy Regulatory Commission,  
Appellee

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

Before EDWARDS, SENTELLE, and GARLAND, *Circuit Judges*.

## **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 briefs filed by the parties. Appellant Rosell appeals from the district court's dismissal of his claim alleging his employer violated the overtime pay provisions of the Fair Labor Standards Act, 29 U.S.C. § 207(a) (1998). The district court dismissed the claim for lack of subject matter jurisdiction on the ground that appellant failed to exhaust his administrative remedies under the exclusive labor management agreement in place between his employer, the Federal Energy Regulatory Commission, and his union, American Federation of Government Employees, Local No. 421. For the reasons articulated by the district court we agree that Rosell did not comply with the grievance procedures provided by the agreement, as he was required to do under the Civil Service Reform Act, 5 U.S.C. § 7121(a) (1996). Accordingly, it is

**ORDERED AND ADJUDGED** that the judgment of the district court be affirmed.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution 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*

For the Court:

Mark J. Langer, Clerk