

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 03-5115

September Term, 2006

92cv00462

Filed On: September 21, 2006

[993025]

Gail G. Billington,
Appellee

v.

Department of Justice,
Appellant

Consolidated with 04-5129, 05-5051

BEFORE: Ginsburg, Chief Judge, Sentelle, Circuit Judge, and Williams,
Senior Circuit Judge

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 by the parties and oral arguments of counsel.

This Court recognizes that its previous order did not advert to the appellant's need to seek a remand from this Court before obtaining relief in the District Court. The law in this Circuit is clear, however, that while an appeal is pending "the District Court may consider the 60(b) motion and, if the District Court indicates that it will grant relief, the appellant may move the appellate court for a remand in order that relief may be granted." *Hoai v. Vo*, 935 F.2d 308, 312 (D.C. Cir. 1991); see *Smith v. Pollin*, 194 F.2d 349, 350 (D.C. Cir. 1952) (per curiam). It is therefore

ORDERED that the case is remanded for the District Court to re-enter the applicable final order(s) within 15 business days from the date of this order, or to conduct such further proceedings and take such further action as may be appropriate.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to issue the mandate immediately. See D.C. Cir. Rule 41(a)(1). The Clerk is directed to transmit a copy of this order to the District Court, and is also directed to assign to this panel any appeal from the District Court's order on remand.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:

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Michael C. McGrail
Deputy Clerk