

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 05-5157

September Term, 2006

FILED ON: SEPTEMBER 22, 2006 [993315]

AFSSAR PARI DELFANI,

APPELLANT

v.

U.S. CAPITOL GUIDE BOARD,

APPELLEE

Appeal from the United States District Court
for the District of Columbia
(No. 03cv00949)

Before: GINSBURG, *Chief Judge*, and GRIFFITH and KAVANAUGH, *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 of the parties. The court has determined that the issues presented occasion no need for oral argument. *See* D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the Order of the District Court in *Delfani v. U.S. Capitol Guide Board*, Civil Action No. 03-0949 (RWR), 2005 U.S. Dist. LEXIS 5661, at *1 (D.D.C. March 31, 2005) be affirmed. The district court lacked subject matter jurisdiction because the plaintiff had an administrative complaint pending when she filed this civil action. We need not decide whether a claimant's election of the administrative option is irrevocable such that any later-filed civil action in the district court must be dismissed.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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 rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

FOR THE COURT:

Mark J. Langer, Clerk

BY:

Deputy Clerk