

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 06-5189

September Term, 2006

06cv00853

Filed On: October 19, 2006

[998684]

Larry Ruther,
Appellant

v.

U.S. Veterans Administration,
Appellee

BEFORE: Ginsburg, Chief Judge, and Rogers and Griffith, 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 brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court's orders filed May 8, 2006, and May 30, 2006, be affirmed. The district court did not err in dismissing appellant's complaint, because it appears that appellant did not establish the existence of a contract with the federal government and did not plead his claim of fraud with the particularity required by Fed. R. Civ. P. 9(b). To the extent appellant alleged a tort claim, he has failed to show exhaustion of his administrative remedies as required by the Federal Tort Claims Act, 28 U.S.C. § 2671 et seq. Moreover, the district court did not abuse its discretion in denying reconsideration of the dismissal of the case. See Firestone v. Firestone, 76 F.3d 1205, 1208 (D.C. Cir. 1996).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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