

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 05-5387

September Term, 2006

05cv01950

Filed On: December 1, 2006

[1007996]

Luis Manuel Alvarado-Rivera,
Appellant

v.

Federal Bureau of Prisons,
Appellee

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

BEFORE: Sentelle, Henderson, and Tatel, 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 the appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of these materials and the motion for appointment of counsel, it is

ORDERED that the motion for appointment of counsel be denied. With the exception of defendants appealing or defending in criminal cases, appellants are not entitled to appointment of counsel when they have not demonstrated sufficient likelihood of success on the merits. It is

FURTHER ORDERED AND ADJUDGED that the judgment of the district court be affirmed. This court has stated that “[l]ack of fluency in English ... is not a disability within the meaning of the ADA.” Burkhart v. WMATA, 112 F.3d 1207, 1214 (D.C. Cir. 1997). Appellant contends that this statement is dictum, but he has neither demonstrated that it describes the law incorrectly nor cited any contrary authority. Thus, he has not demonstrated a clear and indisputable right to relief. It follows that the district court correctly denied appellant’s petition for a writ of mandamus. See In re Asemani, 455 F.3d 296, 299 (D.C. Cir. 2006).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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