

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 07-5132**

**September Term, 2006**

**06cv01010**

**Filed On: September 27, 2007**

[1069706]

Gerald L. Rogers,  
Appellant

R. D. Ryno, Jr.,  
Appellee

v.

United States District Court for the District of  
Colorado, et al.,  
Appellees

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

**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 brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the “motion for suspension of rules to grant judgment pursuant to circuit’s doctrine of stare decisis,” it is

**ORDERED** that the motion for suspension of rules be denied. It is

**FURTHER ORDERED AND ADJUDGED** that the district court’s order, filed April 10, 2007, granting a motion for leave to file second amended complaint and sua sponte dismissing the case with prejudice for failure to state a claim upon which relief can be granted, be affirmed. Because a sua sponte dismissal is appropriate where it is clear “the claimant cannot possibly win relief,” see Best v. Kelly, 39 F.3d 328, 331 (D.C. Cir. 1994) (citing Baker v Director, United States Parole Comm’n, 916 F.2d 725, 727 (D.C.

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Cir. 1990) (per curiam)), the district court did not abuse its discretion in dismissing the complaint.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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