

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 05-7171

September Term, 2007

04cv01654

04cv01695

Filed On: January 11, 2008

Melvin L. Ferguson,
Appellant

v.

Department of Corrections, Washington, DC and Fred
Figueroa, Warden,
Appellees

Consolidated with 05-7172

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

BEFORE: Rogers, Garland, and Griffith, Circuit Judges

J U D G M E N T

Upon consideration of the motion for appointment of counsel, the record from the United States District Court for the District of Columbia, and the briefs filed by the parties, 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 district court orders dismissing the complaints filed in 04cv1654 and 04cv1695 be affirmed. Appellant's complaint failed to allege that defendants' conduct was the result of a custom or policy of the District of Columbia. See generally Monell v. Dep't of Social Services of the City of New York, 436 U.S. 658, 690 (1978). And because appellant no longer pursues his claim regarding the alleged failure to provide dental services, that claim is deemed waived. See, e.g., Jankovic v. International Crisis Group, 494 F.3d 1080, 1086 (D.C. Cir. 2007).

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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