

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 08-5195

September Term 2008

1:08-cv-00649-UNA

Filed On: February 6, 2009

Michael S. Gorbey,

Appellant

v.

United States of America, et al.,

Appellees

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

BEFORE: Sentelle, Chief Judge, and Randolph and Rogers, 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 and supplement thereto 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 order filed May 22, 2008, be affirmed. The district court correctly dismissed without prejudice appellant's conspiracy complaint, because the complaint contained only conclusory and unsubstantiated allegations of conspiratorial conduct. See, e.g., Barr v. Clinton, 370 F.3d 1196 (D.C. Cir. 2004). Moreover, appellant's damages claims are barred by Heck v. Humphrey, 512 U.S. 477 (1994) (criminal defendant may not recover damages under § 1983 for harm caused by actions whose unlawfulness would render conviction or sentence invalid unless conviction or sentence has been invalidated in another proceeding). See Williams v. Hill, 64 F.3d 1339 (D.C. Cir. 1996) (applying Heck to actions against federal officials). Notably, the district court's dismissal was without prejudice to refiling should appellant ever meet the requirements of Heck.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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