

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 09-5443

September Term 2009

1:09-cv-02328-UNA

Filed On: April 23, 2010

Tommy Lee Stevens,

Appellant

v.

United States Department of Health and
Human Services, Washington, DC and
Department of Health And Human Resources,

Appellees

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

BEFORE: Sentelle, 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 and supplement filed by the 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 issued December 8, 2009, be affirmed. The district court properly dismissed the appellant's complaint as frivolous. The complaint contains factual allegations that are so implausible as to be "fantastic or delusional." See *Nietzke v. Williams*, 490 U.S. 319, 328 (1989). The district court did not err in dismissing the complaint without the consent of the Attorney General, 31 U.S.C. § 3730(b)(1), because pro se plaintiffs may not file a qui tam action pursuant to the False Claims Act, and section 3730(b)(1) only applies to voluntary dismissals by qui tam plaintiffs. See *United States ex rel. Mergent Servs. v. Flaherty*, 540 F.3d 89, 91-94 (2d Cir. 2008).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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

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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