

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 09-5295

September Term, 2010

FILED ON: FEBRUARY 22, 2011

KARL OLSON,

APPELLANT

v.

HILLARY RODHAM CLINTON, IN HER CAPACITY AS SECRETARY OF STATE,

APPELLEE

Appeal from the United States District Court
for the District of Columbia
(No. 1:06-cv-01205)

Before: GINSBURG and GARLAND, *Circuit Judges*, and SILBERMAN, *Senior Circuit Judge*

J U D G M E N T

This appeal from a judgment of the United States District Court for the District of Columbia was considered on the record and on the briefs of counsel. The court has accorded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. CIR. R. 36(d). It is

ORDERED and **ADJUDGED** that the judgment of the district court be affirmed.

Karl Olson, a Foreign Service Officer, challenges the Foreign Service Grievance Board's decision to deny his grievance regarding two Employee Evaluation Reports (EERs), as well as the district court's grant of summary judgment in favor of the appellees. We hold that the district court had jurisdiction over Olson's claim under 22 U.S.C. § 4140 because Olson was posted abroad at the time the Board rendered its decision, and his request for judicial review was filed "not later than 180 days after [he] return[ed] to the United States." § 4140(a). For the reasons stated by the district court, we find that Olson has failed to demonstrate that the Board acted arbitrarily and capriciously when it determined that the EERs he challenged were not "falsely prejudicial," 22 U.S.C. § 4131(a)(1)(E).

The Clerk is directed to withhold the issuance of the mandate herein until seven days after the disposition of any timely petition for rehearing. *See* FED. R. APP. P. 41(b); D.C. CIR. RULE 41(a)(1).

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Jennifer M. Clark
Deputy Clerk