

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11-5257

September Term 2011

1:11-cv-01442-UNA

Filed On: January 10, 2012

Michael K. Ciacci,

Appellant

v.

United States Department of Justice, Civil
Division, Tort Branch, et al.,

Appellees

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

BEFORE: Sentelle, Chief Judge; Kavanaugh, Circuit Judge; and Ginsburg,
Senior Circuit Judge

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, which contains requests for appointment of counsel and injunctive relief. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED that the request for appointment of counsel be denied. In civil 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's order filed August 8, 2011, be affirmed. The district court properly dismissed the complaint to the extent it sought review of the denial of appellant's administrative tort claim. The tort claim did not identify any "negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment." 28 U.S.C. § 2675(a). The district court properly concluded that appellant's claims against the remaining appellees are barred by res judicata, because appellant raises issues in the

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instant case that were or could have been raised in his previous action. See Allen v. McCurry, 449 U.S. 90, 94 (1980) (“Under res judicata, a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action.”); Smalls v. United States, 471 F.3d 186, 192 (D.C. Cir. 2006). It is

FURTHER ORDERED that the request for injunctive relief be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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