

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12-5003

September Term 2011

1:11-cv-02179-UNA

Filed On: April 13, 2012

Kelvin Cannon, Jr.,

Appellant

v.

United States of America,

Appellee

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

BEFORE: Sentelle, Chief Judge, and Brown 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 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 filed December 9, 2011, be affirmed. The district court properly dismissed appellant's complaint without prejudice because the complaint failed to demonstrate that appellant had exhausted his administrative remedies prior to filing a complaint for damages against an agency of the United States, as required by the Federal Tort Claims Act. See 28 U.S.C. § 2675(a). The dismissal without prejudice allows appellant to file a new complaint, which must demonstrate that he exhausted his administrative remedies and must meet the requirements of Federal Rule of Civil Procedure 8(a). See Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949-50 (2009); Ciralsky v. CIA, 355 F.3d 661, 668-71 (D.C. Cir. 2004). Rule 8(a)(2) requires "a short and plain statement of the claim showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007) (internal quotation marks omitted).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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