

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16-5317

September Term, 2017

FILED ON: MARCH 6, 2018

LINDA SOLOMON,

APPELLEE

JOHN F. KARL, JR.,

APPELLANT

v.

SONNY PERDUE, SECRETARY OF AGRICULTURE,

APPELLEE

Appeal from the United States District Court
for the District of Columbia
(No. 1:07-cv-01590)

Before: GARLAND, *Chief Judge*, and SILBERMAN and SENTELLE, *Senior 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 briefs filed by the parties. See FED. R. APP. P. 34(a)(2); D.C. CIR. R. 34(j). The court has accorded the issues full consideration and determined that they do not warrant a published opinion. See D.C. CIR. R. 36(d). It is

ORDERED AND ADJUDGED that the appeal be dismissed as moot for the reasons stated in the memorandum accompanying this judgment.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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. R. 41.

PER CURIAM

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Ken Meadows

Deputy Clerk

MEMORANDUM

Appellant John F. Karl, Jr. is an attorney who was retained in 2007 by Appellee Linda Solomon to represent her in her disability suit against Appellee U.S. Department of Agriculture (USDA). Karl represented Solomon until May 2016, when the District Court granted his Motion to Withdraw as Counsel. During the many years in which he provided legal services to Solomon, and pursuant to their contract, Karl billed her at the then-applicable *Laffey* rate of \$425.00 per hour. In August 2016, Ms. Solomon reached a settlement with the USDA that provided her with \$999,999.00. Karl requested that the District Court impose a lien on Solomon's award in order to ensure that he received compensation for the legal services that he had rendered.

The District Court declined to do so. It issued an order dismissing the case with prejudice according to the terms of the settlement between Solomon and the USDA, emphasizing that because Solomon had not retained Karl on a contingent fee basis, Karl did not have a valid charging lien. The District Court therefore ruled that it had "no authority to retain jurisdiction over the dispute between Karl and [Solomon] regarding attorneys' fees now that this case has been dismissed." *Solomon v. Vilsack*, No. 1:07-cv-01590 (D.D.C. August 31, 2016). In October 2016, the Judgment Fund of the United States Treasury disbursed the funds in question to Solomon.

Karl raises a number of arguments for the imposition of an equitable lien on the funds from the settlement. He contends that he properly joined the case as a *de facto* intervenor, and that the government has waived its sovereign immunity with respect to the case he brings against it. Further, he asserts that the circumstances of his representation of Solomon gave rise to an equitable lien under District of Columbia law, which governs any lien arising from his contract with Solomon.

However, the funds upon which Karl sought to place a lien have already been paid to Solomon. As the government notes in its brief, this renders the case before us moot. Resp't's Br. 12. Even if we were to accept Karl's intervention and grant him the relief he seeks, the District Court would be incapable of imposing an equitable lien on funds that are no longer within its jurisdiction. In any event, Karl does not respond to this argument in his reply brief. He therefore waives any opportunity to do so. He of course retains his right to pursue his claims against Solomon directly, as indeed he has in a pending case before the Superior Court of the District of Columbia. See *Karl v. Solomon*, C.A. No. 2016 CA 006769 B (D.C. Super. Ct. filed Sept. 12, 2016).

Karl also seeks sanctions against Glenn Stephens, an attorney who represented Solomon for approximately three months before this court. We will address that issue separately.