United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-5191 **September Term, 2017**

1:16-cv-01053-CRC

Filed On: March 14, 2018

Mark Crumpacker,

Appellee

v.

Caroline Ciraolo-Klepper, et al.,

Appellees

Michael Beals Ellis and Robert A. McNeil,

Appellants

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

BEFORE: Rogers, 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 briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing, and the motions for judicial notice and the responses thereto, the motion for initial hearing en banc and the response thereto, the motion to clarify standard of review, the motion for leave to file a supplemental appendix and the lodged supplemental appendix, the motions to recuse and the response thereto, the motion to compel and set a show cause hearing and the response thereto, the "appeal of refusal to recuse" and the letter in response thereto, and the Rule 28(j) letter, it is

ORDERED that appellants' October 6, 2017 motion for judicial notice of the announcement that the Internal Revenue Service's Automated Substitute for Return program has been suspended due to resource limitations be granted. To the extent the motion asks the court to reconsider the appeals in Crumpacker v. Ciraolo-Klepper, Nos. 17-5054, et al., this request is denied. It is

FURTHER ORDERED that the December 13, 2017 motion for judicial notice of the "motion to correct the record" filed in district court be dismissed as moot. No motion is required for the court to consider materials that are part of the district court's record. See McGuirl v. United States, 167 F. App'x 808 (D.C. Cir. 2005). It is

FURTHER ORDERED that the November 15, 2017 and February 13, 2018 motions for judicial notice be granted. The court takes judicial notice of the petition for rehearing in the United States Court of Appeals for the Ninth Circuit and the order setting a hearing and filings in the United States District Court for the Eastern District of California. See Veg-Mix, Inc. v. U.S. Dep't of Agric., 832 F.2d 601, 607 (D.C. Cir. 1987) (holding that "[c]ourts may take judicial notice of official court records"). The court takes judicial notice of the existence of these filings, not the accuracy of any legal or factual assertions made therein. See Liberty Mut. Ins. Co. v. Rotches Pork Packers, Inc., 969 F.2d 1384, 1388-89 (2d Cir. 1992). It is

FURTHER ORDERED that the motion to file a supplemental appendix be granted. The Clerk is directed to file the lodged supplemental appendix. It is

FURTHER ORDERED that the motion to compel be denied. The court construes the motion to compel as a petition for a writ of mandamus. See Telecomms. Research and Action Ctr. v. FCC, 750 F.2d 70, 76 n.28 (D.C. Cir. 1984). Four of the documents appellants seek to compel the district court to file have already been filed, and appellants have otherwise failed to show a "clear and indisputable right" to mandamus relief. See Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 289 (1988). It is

FURTHER ORDERED that the motions to recuse and the "appeal of refusal to recuse" be denied. The court construes these submissions as petitions for writs of mandamus. See In re al-Nashiri, 791 F.3d 71, 79 (D.C. Cir. 2015). "[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion," Liteky v. United States, 510 U.S. 540, 555 (1994), and no bias or other impropriety is evident from the record. It is

FURTHER ORDERED that the motion for initial hearing en banc be denied. See Fed. R. App. P. 35(a). It is

FURTHER ORDERED AND ADJUDGED that the district court's April 19, 2017 order be affirmed. The district court did not abuse its discretion in granting the motion for an injunction barring future filings without leave of the court. United States v. Philip Morris USA Inc., 566 F.3d 1095, 1110 (D.C. Cir. 2009). The injunction is narrowly tailored to protect the "orderly and expeditious administration of justice" without unduly

burdening appellants' right of access to the courts, see Urban v. United Nations, 768 F.2d 1497, 1500 (D.C. Cir. 1985), and is supported by substantive findings based on evidence that appellants have abused the judicial process by filing repeated, meritless claims that appear calculated to harass other parties and the courts, see In re Powell, 851 F.2d 427, 431 (D.C. Cir. 1988). It is

FURTHER ORDERED that, in light of the foregoing, the motion to clarify standard of review and the motion to set a show cause hearing 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

FOR THE COURT:

BY: /s/
Ken Meadows
Deputy Clerk