

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-5077

September Term, 2018

1:16-cv-02281-UNA

Filed On: November 2, 2018

Ryan J. Barnes,

Appellant

v.

Christopher A. Wray, Director of FBI,

Appellee

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

BEFORE: Rogers, Srinivasan, and Wilkins, 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 appellant's brief and the motions to appoint counsel. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED that the motions to appoint 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 January 27, 2017, be affirmed. Appellant has shown no error in the district court's dismissal of his complaint on the grounds that he had not shown an entitlement to mandamus relief and the court lacked power to compel appellee to conduct an investigation. The Executive Branch has absolute discretion to decide whether to conduct an investigation or prosecute a case. See *United States v. Nixon*, 418 U.S. 683, 693 (1974).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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