

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 18-5253**

**September Term, 2019**

**1:17-cv-02488-TSC**

**Filed On: September 17, 2019**

John Alvin Beck,

Appellant

v.

United States Government, et al.,

Appellees

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

**BEFORE:** Tatel and Rao, Circuit Judges, and Sentelle, 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 briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

**ORDERED AND ADJUDGED** that the district court’s July 9, 2018 order be affirmed. The district court correctly concluded that, insofar as appellant sought monetary damages against the United States, the Smithsonian Institution, and Secretary David Skorton in his official capacity, those parties are entitled to sovereign immunity unless that immunity is waived by the Federal Tort Claims Act, 28 U.S.C. §§ 2671-80 (“FTCA”). See FDIC v. Meyer, 510 U.S. 471, 475-76 (1994). The district court correctly concluded that appellant failed to demonstrate that he had satisfied the FTCA’s exhaustion requirement before filing his complaint. See 28 U.S.C. § 2675(a); McNeil v. United States, 508 U.S. 106, 113 (1993). The court also correctly concluded that the FTCA does not waive the government’s sovereign immunity for constitutional tort claims. See Meyer, 510 U.S. at 476-79.

Furthermore, the district court correctly rejected appellant’s claims pursuant to 42 U.S.C. § 1983 and Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971). The court correctly concluded that 42 U.S.C. § 1983

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applies only to officials or entities acting under color of state or District of Columbia law, and therefore does not give rise to a claim against appellees, which are federal entities and a federal official. See Settles v. United States Parole Comm'n, 429 F.3d 1098, 1104 (D.C. Cir. 2005). The district court also correctly concluded that appellant provided nothing to suggest Secretary Skorton was personally involved in the issuance of the barring notice giving rise to appellant's claims, as is required to sustain a Bivens claim. See, e.g., Simpkins v. District of Columbia Gov't, 108 F.3d 366, 369 (D.C. Cir. 1997).

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:**

Mark J. Langer, Clerk

BY: /s/  
Daniel J. Reidy  
Deputy Clerk