

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19-5141

September Term, 2019

1:19-cv-01045-UNA

Filed On: September 17, 2019

Bahig F. Bishay,

Appellant

v.

United States Department of Justice, 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 brief filed by 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 April 30, 2019 order be affirmed. The district court correctly concluded that it lacked authority to compel appellees to initiate a criminal investigation or prosecution based on appellant’s allegations of a conspiracy to deprive him of property. See, e.g., Heckler v. Chaney, 470 U.S. 821, 831-32 (1985) (“[A]n agency’s decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency’s absolute discretion.”). With respect to appellant’s contention that appellees’ decision not to pursue such an investigation or prosecution deprived him of his constitutional right to due process, the court correctly concluded that “a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.” Linda R.S. v. Richard D., 410 U.S. 614, 619 (1973). Insofar as appellant sought, in the alternative, an order directing appellees to compensate him for the property involved in the alleged conspiracy, the only basis advanced by appellant for such a request was appellees’ decision not to investigate or prosecute, which is committed to appellee agencies’ absolute discretion. See Heckler, 470 U.S. at 831.

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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