

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19-7002

September Term, 2019

FILED ON: DECEMBER 20, 2019

PHILLIP S. MORALES, ET AL.,
APPELLANTS

v.

INTELSAT GLOBAL SERVICE CORP., NOW KNOWN AS
INTELSAT GLOBAL SERVICE LLC, ET AL.,
APPELLEES

Appeal from the United States District Court
for the District of Columbia
(No. 1:04-cv-01044)

Before: SRINIVASAN, KATSAS and RAO, *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 of the parties. 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). For the reasons stated below, it is

ORDERED and **ADJUDGED** that the decision of the district court be affirmed.

Appellants, a group of retirees formerly employed by appellee Intelsat, filed a motion in the district court to prevent Intelsat from implementing certain proposed changes to appellants' health benefit plans. The district court construed this as a motion for a preliminary injunction and denied it on December 21, 2018. On January 2 and 3, 2019, the district court issued two orders denying reconsideration of the December 21 order.

Appellants filed the present appeal seeking this Court's review of the December 21, January 2, and January 3 orders. The only issue properly before this Court is the district court's denial of a preliminary injunction in the December 21 order. *See* 28 U.S.C. § 1292(a)(1) (classifying the denial of a preliminary injunction as an immediately appealable interlocutory order); *Weight Watchers Int'l, Inc. v. Luigino's, Inc.*, 423 F.3d 137, 141 (2d Cir. 2005) (explaining that "[a]n order reconsidering or interpreting a preliminary injunction ... is not appealable" because § 1292(a)(1) omits such orders). Appellants, however, have repeatedly—and emphatically—disclaimed any intent to challenge the district court's denial of the preliminary

injunction, both before the district court and on appeal. *See, e.g.*, Appellants Reply Br. 2 (“[Appellants] do not and have not challenged the denial of the temporary injunction by the District Court.”). Appellants instead focus their merits briefing on a previous order of the district court dated April 29, 2019, which denied without prejudice appellants’ motion for a permanent injunction and to enforce the consent decree at issue in this litigation. Appellants separately appealed the April 29 order, and this Court dismissed for lack of finality. *See* Order Granting Motion to Dismiss, *Morales v. Intelsat Glob. Serv. Corp.*, Dkt. No. 19-7041 (July 26, 2019). As such, appellants’ continuing challenges to the April 29 order are irrelevant to this appeal.

Appellants have waived any challenge to the December 21 order by failing to raise arguments against the district court’s order. Thus, this Court has no live issue to adjudicate. *See United States v. Reeves*, 586 F.3d 20, 26 (D.C. Cir. 2009) (“argument not raised on appeal is waived”). Accordingly, we affirm the district court’s denial of the preliminary injunction.

The clerk is directed to withhold the issuance of the mandate herein until seven days after the resolution of any timely petition for rehearing or 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/
Michael C. McGrail
Deputy Clerk