

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5108

September Term, 2019

1:20-cv-00417-UNA

Filed On: June 24, 2020

Ronald Satish Emrit,

Appellant

v.

Betsy DeVos, Secretary, U.S. Department of
Education, et al.,

Appellees

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

BEFORE: Henderson, Griffith, and Katsas, 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, which includes requests for judicial notice, and the supplements to the brief. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing, and the motion to supplement the record, which also includes requests for judicial notice, it is

ORDERED that the motion to supplement the record be denied. Appellant has not shown that supplementation of the record on appeal is appropriate under Federal Rule of Appellate Procedure 10(e)(2)(C), or that it “would establish beyond any doubt the proper resolution of the pending issues,” or that it is otherwise “in the interests of justice.” Colbert v. Potter, 471 F.3d 158, 166 (D.C. Cir. 2006) (internal citations and quotation marks omitted). It is

FURTHER ORDERED that appellant’s request for judicial notice be dismissed as moot in part and denied in part. “No motion is required for the court to consider materials that are part of the district court’s record.” See Crumpacker v. Ciraolo-Klepper, 715 Fed. Appx. 18, 19 (D.C. Cir. 2018). And the additional alleged facts that appellant requests to be noticed would not impact the disposition of this

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appeal. See Larson v. Dep't of State, 565 F.3d 857, 870 (D.C. Cir. 2009). It is

FURTHER ORDERED AND ADJUDGED that the district court's order, filed April 6, 2020, be affirmed. Appellant has not raised any argument related to the grounds for the district court's dismissal. Therefore, any such possible arguments have been forfeited. See United States ex rel. Totten v. Bombardier Corp., 380 F.3d 488, 497 (D.C. Cir. 2004) ("Ordinarily, arguments that parties do not make on appeal are deemed to have been waived.").

Additionally, the district court correctly concluded that it lacked subject matter jurisdiction over several of appellant's claims. Appellant failed to demonstrate that he exhausted his administrative remedies regarding his claims against the government for monetary damages under the Federal Tort Claims Act ("FTCA"). See McNeil v. United States, 508 U.S. 106, 113 (1993); 28 U.S.C. § 2675(a); Simpkins v. District of Columbia Gov't, 108 F.3d 366, 371 (D.C. Cir. 2007). Further, appellant's constitutional tort claims are barred by sovereign immunity. See FDIC v. Meyer, 510 U.S. 471, 478 (1994). And appellant is unable to pursue injunctive relief in this matter against the government. See 20 U.S.C. § 1082(a)(2) ("No . . . injunction . . . shall be issued against the Secretary or property under the Secretary's control.").

Lastly, as to appellant's remaining claims, appellant did not state a claim upon which relief may be granted. See 28 U.S.C. § 1915(e)(2)(B)(ii); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007).

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