

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5116

September Term, 2020

1:20-cv-00170-UNA

Filed On: September 3, 2020

John Killingbeck,
Appellant

v.

Federal Communications Commission,
Appellee

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

BEFORE: Henderson and Katsas, 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 order filed March 10, 2020 be affirmed. The district court properly construed appellant's complaint as a petition for writ of mandamus, and dismissed the petition on the ground that he had not shown a "clear and indisputable" right to the relief requested. Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 289 (1988); see American Hosp. Ass'n v. Burwell, 812 F.3d 183, 189 (D.C. Cir. 2016) (A threshold requirement of mandamus jurisdiction is that the government agency or official have "a clear duty to act.").

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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