

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-5077

September Term, 2020

1:21-cv-00203-UNA

Filed On: July 7, 2021

Fernando Fontanez,

Appellant

v.

Federal Bureau of Investigation,

Appellee

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

BEFORE: Wilkins 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). Upon consideration of the foregoing, the motion to appoint counsel, and the motion to expedite ruling on the motion to appoint counsel, it is

ORDERED that the motion to appoint counsel be denied and the motion to expedite be dismissed as moot. In civil cases, appellants are not entitled to appointment of counsel when they have not demonstrated sufficient likelihood of success on the merits. It is

FURTHER ORDERED AND ADJUDGED that the district court's orders filed February 12, 2021, and March 4, 2021 be affirmed. The district court properly dismissed the complaint as frivolous. See 28 U.S.C. § 1915(e)(2)(B); Neitzke v. Williams, 490 U.S. 319, 325 (1989) (explaining that a complaint is frivolous "where it lacks an arguable basis either in law or in fact"). Appellant has not shown any abuse of discretion in the district court's denial of reconsideration. See Firestone v. Firestone, 76 F.3d 1205, 1208 (D.C. Cir. 1996) (per curiam). Additionally, appellant has not shown that the district court erred in denying him leave to file an amended complaint. See United States ex rel. Totten v. Bombardier Corp., 380 F.3d 488, 497 (D.C. Cir. 2004) (arguments not raised on appeal are forfeited); Hettinga v. United States, 677 F.3d 471, 480 (D.C. Cir. 2012) (per curiam) ("A district court may deny a motion to

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amend a complaint as futile if the proposed claim would not survive a motion to dismiss.”). Because appellant has shown no basis for the requested relief, his request for an injunction and compensation under the Federal Tort Claims Act, 28 U.S.C. § 2679, is denied.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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