

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 21-7094**

**September Term, 2021**

**1:21-cv-01526-UNA**

**Filed On: December 3, 2021**

John Berman,

Appellant

v.

Kristin Draper,

Appellee

**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 and supplement filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the motion to expedite, it is

**ORDERED AND ADJUDGED** that the district court’s order, entered August 5, 2021, dismissing the case without prejudice be affirmed. The district court correctly concluded that appellant failed to state a claim. “To state a claim under RICO, [a plaintiff] must allege that [the defendant] engaged in a ‘pattern of racketeering activity.’” Ctr. for Immigr. Stud. v. Cohen, 806 F. App’x 7, 8 (D.C. Cir. 2020) (affirming district court’s dismissal for failure to state a claim) (internal citation omitted). “We’ve repeatedly said that it’s ‘virtually impossible’ to identify such a pattern by alleging a ‘single scheme, single injury, and few victims.’” Id. (citing Edmondson & Gallagher v. Alban Towers Tenants Ass’n, 48 F.3d 1260, 1263 (D.C. Cir. 1995)). Additionally, although appellant argues that the district court should not have dismissed his amended complaint without giving him a further opportunity to amend, appellant never actually sought leave to amend his complaint before the district court. See Qian Ibrahim Zhao v. Unknown Agent of CIA, 411 F. App’x 336, 337 (D.C. Cir. 2010) (“By failing to seek leave from the district court to amend his complaint after it was dismissed, appellant forfeited the right to seek leave to amend on appeal.”). It is

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**FURTHER ORDERED** that the motion to expedite be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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