

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-5051

September Term, 2021

1:22-cv-00053-UNA

Filed On: May 2, 2022

Frederick Omoyuma Silver,

Appellant

v.

Antony J. Blinken, United States Secretary of
State and Xavier Becerra, Secretary of the
Department of Health and Human Services,

Appellees

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

BEFORE: Rogers and Tatel, 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 January 25, 2022, be affirmed. Appellant contends that the district court should have granted him leave to amend his complaint prior to dismissal, but the statute contains no such requirement, see 28 U.S.C. § 1915(e)(2)(B)(ii), and the district court's sua sponte dismissal was without prejudice, see *Ciralsky v. CIA*, 355 F.3d 661, 671 (D.C. Cir. 2004) (observing that a dismissal without prejudice typically does not prevent a plaintiff from correcting the complaint's defects and filing a new lawsuit). Moreover, appellant has not suggested any possible amendments to his complaint that could entitle him to relief, nor has he identified any barrier to him filing an amended complaint in the future. Finally, appellant has forfeited any argument regarding the merits of the district court's disposition of his APA claims. 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.").

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-5051

September Term, 2021

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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