

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-7169

September Term, 2022

1:22-cv-01019-CKK

Filed On: August 4, 2023

Micheldeangelou Perfwaybelayouix,

Appellant

v.

Aubrey Graham-Drake, UMG/Republic
Records/OVO, et al.,

Appellees

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

BEFORE: Katsas, Childs, and Pan, 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 the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court’s dismissal order, filed December 1, 2022, be affirmed. Appellant forfeited any challenge to the dismissal of his case with prejudice as a sanction for litigation misconduct by not challenging that ground for dismissal on appeal. See U.S. ex rel. Totten v. Bombardier Corp., 380 F.3d 488, 497 (D.C. Cir. 2004). In any event, the district court did not abuse its discretion in imposing that sanction because appellant sent numerous inappropriate communications to appellees’ counsel and the court and continued to do so even after the court warned him that persisting with such misconduct could result in dismissal. See Bristol Petroleum Corp. v. Harris, 901 F.2d 165, 167–68 (D.C. Cir. 1990). Furthermore, the district court correctly dismissed appellant’s copyright-infringement claim because appellant failed to plausibly plead that the allegedly infringing work “is ‘substantially similar’ to protectible elements of” his own work. Sturdza v. United Arab Emirates, 281 F.3d 1287, 1295 (D.C. Cir. 2002).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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

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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