

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-7164

September Term, 2023

1:23-cv-02978-UNA

Filed On: March 22, 2024

Derrick Allen,

Appellant

v.

North Carolina Department of Employment
Security Commission,

Appellee

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

BEFORE: Henderson, Millett, and Walker, 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 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 entered November 30, 2023 be affirmed. The district court properly dismissed appellant’s case without prejudice for failure to establish a basis for federal jurisdiction. See Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”). The district court correctly concluded that the complaint did not establish diversity of citizenship jurisdiction, and appellant has not challenged the district court’s conclusion that his unelaborated and factually unsupported passing reference to “cruel and unusual punishment” was insufficient to establish federal-question jurisdiction. See 28 U.S.C. §§ 1331, 1332.

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-7164

September Term, 2023

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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/
Michael C. McGrail
Deputy Clerk