

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-5305

September Term, 2023

1:23-cv-02855-UNA

Filed On: June 5, 2024

Edson Gelin,

Appellant

v.

United States of America,

Appellee

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

BEFORE: Wilkins, 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 brief and Rule 28(j) letter 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 October 30, 2023 be affirmed on the ground that the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 2671 et seq., does not waive sovereign immunity for appellant's abuse of process claim. See Chambers v. Burwell, 824 F.3d 141, 143 (D.C. Cir. 2016) (court may affirm on any ground supported by the record). The FTCA constitutes only "a limited waiver of sovereign immunity." Harbury v. Hayden, 522 F.3d 413, 417 (D.C. Cir. 2008). It does not apply to "[a]ny claim arising out of . . . abuse of process," unless the claim arises from the conduct of "investigative or law enforcement officers of the United States Government." 28 U.S.C. § 2680(h). A prosecutor is not an investigative or law enforcement officer within the meaning of § 2680(h). Moore v. United States, 213 F.3d 705, 710 (D.C. Cir. 2000). Appellant has forfeited any other claim. 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).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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

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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