

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 03-5203

September Term, 2003

03cv01322

Filed On: February 27, 2004 [806012]

Chante Hodge and Harold H. Hodge,
Appellants

v.

US Post Office, Lexington Park, MD Postmaster
Reggie Rabon US Mail Clerk Tony,
Wilmer.....Lexington Park, MD US Postal Service
Headquarters Jack Potter (Postmaster General)
Capital District Consumer Affairs, US Postal Service
Nancy Miller Denise McQueen (Claims Investigator)
Dawn Dinkins US Postal Service Sandra L. Beverly
Derek Lewis Celle Edward Brown Janis Cooker (CEO)
Suzanae Medvirovich (VP) Timothy Lee Peggy Smith
Richard Lindsey.....St. Louis, MO, et al.,
Appellees

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

BEFORE: Ginsburg, Chief Judge, and Rogers and Garland, 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 the appellants. It is

ORDERED AND ADJUDGED that the district court's order filed June 18, 2003 be affirmed with respect to the dismissal of all claims against the United States Postal Service and its employees. The Postal Reorganization Act of 1970 authorizes the Postal Service to sue or be sued in its official name. 39 U.S.C. § 401(1). This provision does not permit all types of lawsuits, however. The Act provides that tort claims against the Postal Service are governed by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1346(b). See 39 U.S.C. § 409(c). Thus, the Postal Reorganization Act expressly limits the scope of the "sue-and-be-sued" waiver of the Postal Service's sovereign immunity. See Loeffler v. Frank, 486 U.S. 549, 554-57 & n.4 (1988); Boehme v. USPS, 343 F.3d 1260, 1263 (10th Cir. 2003) (citing cases). The FTCA states that sovereign immunity is not waived with respect to "[a]ny claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter." 28 U.S.C. § 2680(b). The district court correctly determined that the claims against the Postal Service and its employees all

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related to loss, miscarriage, or negligent transmission of mail matter, and thus these claims were properly dismissed.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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