

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 21-7065**

**September Term, 2021**

**1:21-cv-00204-UNA**

**Filed On: March 28, 2022**

Anthony Lee McNair,

Appellant

v.

Government of North Carolina and North  
Carolina Department of Public Safety,

Appellees

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

**BEFORE:** Henderson 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 briefs and supplements thereto filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the motion for release pending appeal and for injunction, the supplement thereto, the motion for damages or remand, and the supplements thereto, it is

**ORDERED AND ADJUDGED** that the district court’s order filed June 1, 2021 be affirmed. The district court properly dismissed the case for lack of subject-matter jurisdiction because appellant’s claims are barred by sovereign immunity. See P.R. Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc., 506 U.S. 139, 144 (1993) (“Absent waiver, neither a State nor agencies acting under its control may ‘be subject to suit in federal court.’”) (quoting Welch v. Tex. Dept. of Highways and Public Transp., 483 U.S. 468, 480 (1987)). Appellant has not plausibly alleged any facts that show that appellees have waived their sovereign immunity. See Bronner ex. rel. Am. Stud. Ass’n v. Duggan, 962 F.3d 596, 602 (D.C. Cir. 2020) (“[O]nce jurisdiction is in question, ‘the party claiming subject matter jurisdiction . . . has the burden to demonstrate that it exists.’”) (quoting Khadr v. United States, 529 F.3d 1112, 1115 (D.C. Cir. 2008)). It is

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**FURTHER ORDERED** that the motion for release pending appeal and for injunction and the motion for damages or remand be 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Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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**

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Daniel J. Reidy  
Deputy Clerk