

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-5191

September Term, 2018

1:18-cv-00184-UNA

Filed On: September 21, 2018

Kirk Schultz, individually and on behalf of all others,

Appellant

v.

United States Department of Health and Human Services, et al.,

Appellees

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

BEFORE: Henderson and Srinivasan, 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 brief filed by appellant and the supplement thereto. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court’s April 6, 2018 order be affirmed. The district court did not abuse its discretion by dismissing appellant’s case without prejudice on the ground that the complaint did not meet the requirements of Federal Rule of Civil Procedure 8(a). Appellant’s complaint did not contain a short and plain statement of the claims showing that he is entitled to relief. See Fed. R. Civ. P. 8(a). Moreover, the district court did not err in dismissing the case sua sponte before service on the defendants because the complaint “failed to give the defendants fair notice of the claims against them.” Ciralsky v. CIA, 355 F.3d 661, 670 (D.C. Cir. 2004).

Appellant alleges on appeal that the district court failed to file motions he submitted and improperly denied him leave to file electronically, which prevented him from amending his complaint. However, appellant has not shown that the district court declined to accept any pleadings he submitted in this case, nor has he shown that he made any attempt to amend his complaint. Because appellant’s complaint was

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dismissed without prejudice, he is free to file a new complaint that cures the deficiencies identified by the district court.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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