United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15-5228 **September Term, 2015**

1:14-cv-00788-CKK

Filed On: February 1, 2016

Anthony L. Williams, Private Attorney General, ex rel,

Appellant

v.

Thomas E. Perez, Secretary of Labor,

Appellee

BEFORE: Henderson, Rogers, and Srinivasan, Circuit Judges

O R D E R

Upon consideration of the motion for summary reversal, the opposition thereto, and the reply; the motion for summary affirmance and the opposition thereto; and the motion to appoint counsel, it is

ORDERED that the motion to appoint counsel be denied. In civil cases, appellants are not entitled to appointment of counsel when they have not demonstrated sufficient likelihood of success on the merits. It is

FURTHER ORDERED that the motion for summary reversal be denied and the motion for summary affirmance be granted. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam).

Because the Ninth Circuit has already determined, in the context of Williams's case, that a district court lacks jurisdiction to hear a claim under the Whistleblower Protection Act of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, 49 U.S.C. § 42121, Williams's attempt to again raise in district court a claim under that statute is barred by res judicata. See Allen v. McCurry, 449 U.S. 90, 94 (1980) ("Under res judicata, a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action."); GAF Corp. v. United States, 818 F.2d 901, 912 (D.C. Cir. 1987) (a

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judgment dismissing an action for lack of jurisdiction will "preclude relitigation of the precise issue of jurisdiction that led to the initial dismissal"). Because all of the other claims raised by Williams in his complaint have already been decided, or could have been raised, in prior proceedings, those claims are also barred on res judicata grounds. See Washington Water Power Co. v. FERC, 775 F.2d 305, 341 (D.C. Cir. 1985) (stating that the purpose of res judicata is "to prevent relitigation of issues that were, or should have been, previously tried").

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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/
Robert J. Cavello
Deputy Clerk