United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19-5301 **September Term, 2020**

1:17-cv-02834-PLF

Filed On: October 13, 2020

Carl Parker, As Administrator for the Estate of Gary Parker, et al.,

Appellants

v.

United States Department of Agriculture, Sonny Perdue, Secretary,

Appellee

BEFORE: Henderson, Rogers, and Walker, Circuit Judges

O R D E R

Upon consideration of the motion for summary affirmance, the opposition thereto, and the reply, it is

ORDERED that 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). The district court did not err in dismissing appellants' complaint for failure to state a claim upon which relief could be granted. See Pigford v. Perdue, 950 F.3d 886, 891 (D.C. Cir. 2020).

First, the district court correctly concluded that appellants' allegations of inadequate assistance of counsel do not constitute grounds for relief. The Consent Decree established in Pigford v. Glickman, 185 F.R.D. 82 (D.D.C. 1999), did not require the district court to monitor the performance of class members' counsel, and "ineffective assistance of counsel is not a ground for relief in a civil . . . case." Berry v. Coastal International Security, Inc., No. 16-7043, 2016 WL 4434664 (D.C. Cir. Aug. 22, 2016) (per curiam); see also Glick v. Henderson, 855 F.2d 536, 541 (8th Cir. 1988); MacCuish v. United States, 844 F.2d 733, 735-36 (10th Cir. 1988).

Next, the district court correctly concluded that it lacks the authority, under the Consent Decree, to review alleged errors on the part of the third-party Adjudicator or Arbitrator. See Pigford v. Vilsack, 777 F.3d 509, 515 (D.C. Cir. 2015) (noting that "the

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Consent Decree renders any determination 'final' and unreviewable by any court once the monitor has considered any petition for review").

Finally, the doctrine of res judicata bars appellants Cecil Brewington and Lucious Abrams from pursuing their claims in this case. Res judicata bars subsequent lawsuits "if there has been prior litigation (1) involving the same claims or cause of action, (2) between the same parties or their privies, and (3) there has been a final, valid judgment on the merits, (4) by a court of competent jurisdiction." Smalls v. United States, 471 F.3d 186, 192 (D.C. Cir. 2006). Brewington's and Abrams's claims were previously rejected in a final judgment by a court of competent jurisdiction. See Abrams v. Vilsack, 655 F. Supp. 2d 48, 52 n.4 (D.D.C. 2009); Brewington v. Vilsack, No. 08-1762 (D.D.C. Aug. 24, 2009).

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/
Manuel J. Castro
Deputy Clerk