

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 18, 2023

Lyle W. Cayce
Clerk

No. 23-40058
Summary Calendar

ROBERT ROSS,

Plaintiff—Appellant,

versus

UNITED STATES OF AMERICA,

Defendant—Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:21-CV-607

Before DENNIS, ENGELHARDT, and WILSON, *Circuit Judges.*

PER CURIAM:*

Robert Ross appeals from the district court's dismissal without prejudice of his Federal Tort Claims Act complaint. However, the district court construed his post-judgment motion as a timely motion to alter or amend judgment under Federal Rule of Civil Procedure 59(e), granted that construed motion, and reinstated his complaint. Because the judgment of

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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dismissal from which Ross filed his construed notice of appeal is no longer in effect, the appeal does not present a live controversy and is moot. *See United States v. Heredia-Holguin*, 823 F.3d 337, 340 (5th Cir. 2016) (en banc).

Accordingly, the appeal is DISMISSED as MOOT.