UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 94-20024
Summary Calendar

GLENN FRANKLIN ANDERSON,

Plaintiff-Appellant,

VERSUS

DEPARTMENT OF THE AIR FORCE, ET AL.,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
(CA H 93-1631)

(August 19, 1994)

Before GARWOOD, HIGGINBOTHAM and DAVIS, Circuit Judges.

PER CURIAM:[1]

Anderson challenges the district court's dismissal of the United States, the United States Air Force and other federal defendants including the U.S. Court of Claims, the U.S. Court of Appeals for the Federal Circuit, the U.S. District Court for the Southern District of Texas and the Fifth Circuit Court of Appeals.

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[1]Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

His suit, although couched in constitutional terms, complained of the United States Air Force's refusal to allow him to re-enlist.

Mr. Anderson has presented his claim for adjudication not once but twice. The Court of Claims (91-5051) rejected his suit on the merits and the U.S. Court of Appeals for the Federal Circuit affirmed. Mr. Anderson sought to relitigate his claim by filing suit in the Southern District of Texas (H-91-CV-519) which dismissed the action. We affirmed (92-7112) and held that the Court of Claims' judgment barred relitigation of his claim. Anderson then filed the instant suit in the Southern District of Texas. The district court correctly concluded that our judgment in Anderson's previous case precludes this action.[2]

Accordingly, we affirm the district court's judgment and award double costs to the appellee. Because this action is frivolous, Anderson shall also pay to the United States the sum of $500 under F.R.A.P. 38.

AFFIRMED.

Costs and damages awarded under F.R.A.P. 38

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[2] Anderson's argument that he had inadequate notice that the court would treat the government's motion as one for summary judgment is meritless. A party is considered to have the requisite notice from the time he submits material outside the pleadings. **Washington v. Allstate Ins. Co.**, 901 F.2d 1281 (5th Cir. 1990). Anderson submitted material outside the pleadings at least ten days before the court's ruling.