

## Appendix Section

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-5168

September Term, 2017

1:17-cv-00897-UNA

Filed On: April 12, 2018

Marlon L. Watford,

Appellant

v.

Erik Fossum and Scott S. Harris,

Appellees

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

BEFORE: Griffith and Kavanaugh, Circuit Judges, and Ginsburg,  
Senior Circuit Judge

JUDGMENT

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. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the motion for appointment of 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 AND ADJUDGED** that the district court's May 12, 2017 order be affirmed. The district court correctly held that appellant's damages claims against the Clerk of the Supreme Court and one of his employees are barred by judicial immunity. See Sindram v. Suda, 986 F.2d 1459, 1460-61 (D.C. Cir. 1993) (per curiam). With respect to appellant's claim for injunctive relief against the Clerk, his staff, or alternatively the Justices, the district court also properly concluded that it lacked authority to compel them to accept appellant's submissions or to take any other action. See In re Marin, 956 F.2d 339, 340 (D.C. Cir. 1992) (per curiam).

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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/  
Scott H. Atchue  
Deputy Clerk

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Marlon L. Watford, )  
Plaintiff, ) Case: 1:17-cv-00897 (F-Deck)  
v. ) Assigned To: Unassigned  
Erik Fossum *et al.*, ) Assign. Date: 5/12/2017  
Defendants. ) Description: Pro Se Gen. Civil

MEMORANDUM OPINION

This action is before the court on its initial review of plaintiff's *pro se* complaint and application to proceed *informa pauperis*. The court will grant the application and dismiss the complaint for lack of subject matter jurisdiction. *See Fed. R. Civ. P. 12(h)(3)* (requiring dismissal of an action "at any time" the court determines that it lacks subject matter jurisdiction).

Plaintiff has sued the Clerk of the United States Supreme Court and one of his employees for monetary damages and injunctive relief. Plaintiff alleges that in June of 2015, defendants refused to file certain documents that he had submitted in further support of his petition for a writ of certiorari. Compl. at 3. He contends that defendants' actions deprived him "of his U.S. Supreme Court Rule 44 paper documented right to file a petition for rehearing and his entitlement and right to 25 material world days to prepare and file said petition[.]" *Id.* at 8.

The Supreme Court "has inherent [and exclusive] supervisory authority over its Clerk." *In re Marin*, 956 F.2d 339, 340 (D.C. Cir. 1992) (per curiam). Therefore, "a lower court may [not] compel the Clerk of the Supreme Court to take any action." *Id.*; *see Panko v. Rodak*, 606 F.2d 168, 171 n.6 (7th Cir. 1979), *cert. denied*, 444 U.S. 1081 (1980) ("It seems axiomatic that a lower court may not order the judges or officers of a higher court to take an action."). In

Appendix

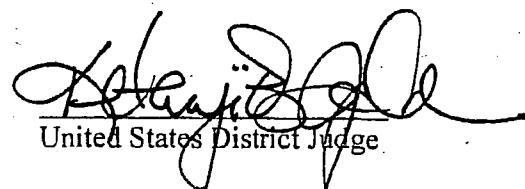
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addition, the Supreme Court Clerk and his staff enjoy absolute immunity from a lawsuit based on actions, such as alleged here, that fall within the scope of their official duties. *Sindram v. Suda*, 986 F.2d 1459, 1460 (D.C. Cir. 1993). Hence, this case will be dismissed. A separate order accompanies this Memorandum Opinion.

Date: May 10, 2017

  
United States District Judge

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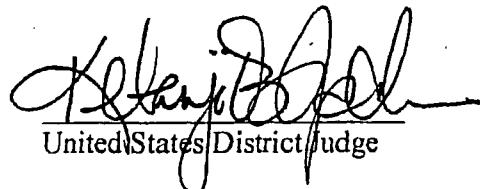
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Marlon L. Watford, )  
Plaintiff, ) Case: 1:17-cv-00897 (F Deck)  
v. ) Assigned To: Unassigned  
Erik Fossum *et al.*, ) Assign. Date: 5/12/2017  
Defendants. ) Description: Pro Se Gen. Civil

ORDER

For the reasons stated in the accompanying Memorandum Opinion, it is  
ORDERED that the application to proceed *in forma pauperis* [Dkt. # 2] is GRANTED,  
and this case is DISMISSED without prejudice.

This is a final appealable Order.



United States District Judge

Date: May 10, 2017

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**Additional material  
from this filing is  
available in the  
Clerk's Office.**