

IN THE SUPREME COURT OF THE UNITED STATES
PLAINTIFF-APPELLANT'S APPENDIX TO THE BRIEF

Document	Document Date	Brief Page	Exhibit Number
<i>United States' Motion for Affirmation</i> by the United States Department of Justice	6 November 2024	7	1
<i>Order</i> by the United States Court of Appeals for the District of Columbia Circuit	4 February 2025	6-9	2
<i>Mandate</i> by the United States Court of Appeals for the District of Columbia Circuit	14 March 2025	5, 6, 8, 10	3
<i>Printout</i> by the United States Postal Service for Priority Mail Tracking Number 9505 5158 9800 5064 9676 57	5 March 2025 – 19 March 2025	7	4
<i>Printout</i> by the United States Postal Service for Priority Mail Tracking Number 9505 5158 9796 5070 1968 89	11 March 2025 – 31 March 2025	7	5

EXHIBIT 1

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 24-7134

September Term, 2024

1:23-cv-03467-CJN

Filed On: February 4, 2025

United States of America, ex rel. Danilo
Augusto Feliciano,

and

Danilo Augusto Feliciano,

Appellant

v.

Robert Kyle Ardoin, Louisiana Secretary of
State, et al.,

Appellees

United States of America,
Intervenor

BEFORE: Millett, Wilkins, and Rao, Circuit Judges

ORDER

Upon consideration of the motion for summary affirmance, the response thereto, the reply, the filing styled as a motion for summary judgment, which has been construed as a surreply, and appellant's opening brief, 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 correctly dismissed appellant's claims alleging violations of the False Claims Act, 31 U.S.C. §§ 3729 *et seq.*, because he was proceeding pro se. Claims under the False Claims Act "belong to the government," not the relator. U.S. ex rel. Lovern v. Deutsche Bank Tr. Co. Americas, No. 14-7186, 2015 WL 2226230, at *1 (D.C. Cir. May 6, 2015) (citing Vt. Agency of Nat. Res. v. U.S. ex rel. Stevens, 529 U.S. 765, 773-74 & n.4 (2000)). While parties may conduct "their own cases" pro se, 28

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 24-7134

September Term, 2024

U.S.C. § 1654, a non-attorney “cannot appear [pro se] and seek to represent others,” Collins v. O’Brien, 208 F.2d 44, 45 (D.C. Cir. 1953); cf. Georgiades v. Martin-Trigona, 729 F.2d 831, 834 (D.C. Cir. 1984) (holding that non-attorney could “appear pro se but [was] not qualified to appear . . . as counsel for others”). Because a False Claims Act relator pursues the government’s claims rather than the relator’s own claims, this rule precludes relators from proceeding pro se.

The False Claims Act contains no exception to that background rule. On the contrary, the “relator in a [False Claims Act] action needs qualified legal counsel to ensure that the real party at interest, the United States, is adequately represented.” U.S. ex rel. Rockefeller v. Westinghouse Elec. Co., 274 F. Supp. 2d 10, 16 (D.D.C. 2003). Indeed, permitting a relator to proceed pro se would risk binding the government to an adverse judgment that might be avoided with the aid of competent counsel. See Wojcicki v. SCANA/SCE&G, 947 F.3d 240, 244 (4th Cir. 2020). And because only one person may bring a qui tam action under the False Claims Act based on a particular set of underlying facts, see 31 U.S.C. § 3730(b)(5), allowing a relator to proceed pro se could prevent another “better-equipped” party from pursuing the claim. Wojcicki, 947 F.3d at 244.

For these reasons, we join every other court of appeals to have addressed the question in holding that relator claims under the False Claims Act cannot proceed pro se. See Wojcicki, 947 F.3d at 244-45; U.S. ex rel. Brooks v. Ormsby, 869 F.3d 356, 357 (5th Cir. 2017); U.S. ex rel. Mergent Servs. v. Flaherty, 540 F.3d 89, 92-94 (2d Cir. 2008); Timson v. Sampson, 518 F.3d 870, 873-74 (11th Cir. 2008); Stoner v. Santa Clara Cnty. Off. of Educ., 502 F.3d 1116, 1125-28 (9th Cir. 2007); U.S. ex rel. Lu v. Ou, 368 F.3d 773, 775-76 (7th Cir. 2004); United States v. Onan, 190 F.2d 1, 6 (8th Cir. 1951).

The district court also correctly dismissed appellant’s claims alleging violations of 52 U.S.C. § 20701 and 18 U.S.C. § 1001. Appellant does not argue that there is a private right of action under either of those criminal-law provisions, and he instead maintains that he seeks to bring these claims as a “private attorney general.” Appellant fails, however, to identify any authority under which individuals may assert claims on the public’s behalf for alleged violations of those statutes. Finally, appellant is incorrect in arguing that he is entitled to judgment in his favor based on the fact that the United States has not filed a brief. See United States v. Jenkins, 50 F.4th 1185, 1203 (D.C. Cir. 2022); see also Fed. R. App. P. 31(c).

The Clerk is directed to publish this order. The Clerk is further directed to withhold issuance of the mandate herein until seven days after resolution of any timely

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 24-7134

September Term, 2024

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:
Clifton B. Cislak, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk

EXHIBIT 2

[NOT YET SCHEDULED FOR ORAL ARGUMENT]**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

UNITED STATES OF AMERICA, ex rel.
DANILO AUGUSTO FELICIANO,

AND

DANILO AUGUSTO FELICIANO,

Appellant

No. 24-7134

v.

ROBERT KYLE ARDOIN, LOUISIANA
SECRETARY OF STATE, et al.,

Appellees.

UNITED STATES' MOTION FOR SUMMARY AFFIRMANCE

The United States respectfully moves for summary affirmance of the district court's order dismissing plaintiff's complaint. Proceeding *pro se*, Plaintiff Danilo Feliciano brought this *qui tam* suit under the False Claims Act (FCA), 31 U.S.C. § 3729 et seq. The complaint also purports to bring

claims under two criminal statutes, 52 U.S.C. § 20701 and 18 U.S.C. § 1001(a)(2).

The United States notified the district court that it was declining to intervene in the suit. The government's notice further suggested that the district court dismiss the complaint on the grounds that (i) a *pro se* plaintiff may not bring an FCA claim on behalf of the United States and (ii) a private plaintiff may not bring claims to enforce federal criminal law. The district court accordingly dismissed the complaint and plaintiff appealed. This Court should summarily affirm the district court's order of dismissal because “[t]he merits of the parties' positions are so clear as to warrant summary action as to these claims,” *Lambert v. Int'l Union of Bricklayers & Allied Craftworkers*, No. 23-7145, 2024 WL 2790386 (D.C. Cir. May 29, 2024) (citing *Taxpayers Watchdog, Inc. v. Stanley*, 819 F.2d 294, 297 (D.C. Cir 1987) (per curiam)), and “no benefit will be gained from further briefing and argument of the issues presented,” *Taxpayers Watchdog, Inc.*, 819 F.2d at 298.

BACKGROUND

1. The FCA establishes liability for certain acts that constitute false claims against the government. The statute may be enforced either by the government or by a private person acting as a “relator.” *See* 31 U.S.C. § 3730(b)(1) (authorizing a relator to bring suit “for the person and for the United States government”). The Supreme Court has explained that the FCA “can reasonably be regarded as effecting a partial assignment of the Government’s damages claim” to the relator and that “a *qui tam* relator is, in effect, suing as a partial assignee of the United States.” *Vt. Agency of Nat. Res. v. United States ex rel. Stevens*, 529 U.S. 765, 773 & n.4 (2000). When a relator brings an FCA claim, the government may elect to intervene. *Id.* § 3730(b)(4). The statute further entitles a relator to recover a share of the proceeds of their *qui tam* claim under certain circumstances. *See* 31 U.S.C. § 3730(d).

2. Relator brought this *qui tam* suit under the FCA against then-Louisiana Secretary of State Robert Ardoin and Dominion Voting Systems,

Inc. (Dominion). Relator has not been represented by counsel at any point during this litigation.

Relator's *pro se* complaint purports to assert three counts under the FCA against Secretary Ardoin based on Louisiana's alleged use of Dominion's electronic voting machines. *See* Compl. at 15-16, ECF No. 1. The complaint further purports to assert two additional counts against defendants under federal criminal statutes, 52 U.S.C. § 20701 (retention and preservation of records by election officials) and 18 U.S.C. § 1001(a)(2) (false statements). *See id.* at 17.

The United States filed a notice under 31 U.S.C. § 3730(b)(4)(B) notifying the district court that it had declined to intervene in this action. *See* United States' Notice of Declination and Suggestion of Dismissal at 1, ECF No. 12. The notice further suggested that the district court dismiss relator's suit on the ground that *pro se* relators cannot litigate FCA claims on behalf of the United States. *See Id.* at 1-3. The government's notice explained that "[p]rior to declination, the United States advised the Relator that if he did not obtain counsel, his case was subject to dismissal" and that

relator nonetheless proceeded *pro se*. *Id.* at 1-2. The notice also suggested that the district court dismiss plaintiff's claims under 52 U.S.C. § 20701 and 18 U.S.C. § 1001(a)(2) on the ground that neither criminal statute contains a private right of action or *qui tam* provision. *Id.* at 3-4.

The district court subsequently issued an order (i) dismissing relator's *qui tam* claims without prejudice and (ii) dismissing plaintiff's claims under 52 U.S.C. § 20701 and 18 U.S.C. § 1001(a)(2) with prejudice to the relator and without prejudice to the United States. *See* Order at 1, ECF No. 22. The district court further ordered that the dismissal order, the complaint, and the United States' Notice of Declination and Suggestion of Dismissal be unsealed. *Id.*

ARGUMENT

I. The district court correctly held that *pro se* relators cannot bring FCA claims on behalf of the United States.

This Court has repeatedly held that "pro se plaintiffs . . . may not file a *qui tam* action pursuant to the False Claims Act." *Idrogo v. Castro*, 672 F. App'x 27 (D.C. Cir. 2016) (per curiam); *see, e.g.*, *United States ex rel. Lovern v. Deutsche Bank Trust Co. Americas*, No. 14-7186, 2015 WL 2226230 (D.C. Cir.

May 6, 2015) (per curiam); *Segelstrom v. Citibank, N.A.*, 617 F. App'x 4 (D.C. Cir. 2015) (per curiam); *Stevens v. Dep't of Health & Hum. Servs.*, 377 F. App'x 16 (D.C. Cir. 2010) (per curiam). This Court's sister circuits have uniformly held the same. *See, e.g., Wojciki v. SCANA Corp.*, 947 F.3d 240 (4th Cir. 2020); *United States ex rel. Brooks v. Ormsby*, 869 F.3d 356, 357 (5th Cir. 2017); *Georgakis v. Ill. State Univ.*, 722 F.3d 1075, 1077 (7th Cir. 2013); *United States ex rel. Mergent Servs. v. Flaherty*, 540 F.3d 89, 93 (2d Cir. 2008). This Court has thus consistently granted motions for summary affirmance of district court orders dismissing *pro se* FCA claims. *See, e.g., Lovern*, 2015 WL 2226230; *Rockefeller ex rel. United States v. Washington TRU Solutions LLC*, No. 03-7120, 2004 WL 180264 (D.C. Cir. 2004).

The circumstances under which litigants may appear without counsel in federal court are limited by statute. *See* 28 U.S.C. § 1654. Parties "may plead and conduct their *own cases*" without counsel. *Id.* (emphasis added). But a *pro se* litigant "is not qualified to appear in the District Court or in this court as counsel for others." *Georgiades v. Martin-Trigona*, 729 F.2d 831, 835 (D.C. Cir. 1984). In cases where both the litigant and a third party have

an interest in the suit, Section 1654 does not permit the litigant to also represent the third party. *See, e.g., Myers v. Loudon Cty. Pub. Sch.*, 418 F.3d 395, 401 (4th Cir. 2005) (holding that “non-attorney parents generally may not litigate the claims of their minor children in federal court”); *Oxendine v. Williams*, 509 F.2d 1405, 1407 (4th Cir. 1975) (per curiam) (holding that a *pro se* prisoner may not litigate the interests of other prisoners in class actions).

A *qui tam* claim under the FCA does not involve solely the relator’s interests, and it is thus not a relator’s “own case[]” within the meaning of Section 1654. Rather, such suits involve significant interests of both the United States and the relator. Indeed, the statute specifies that a relator brings suit both “for the person *and* for the United States Government . . . in the name of the Government.” 31 U.S.C. § 3730(b)(1). While the statute unquestionably gives the relator himself an interest in the lawsuit, the United States also retains an interest in the case. *See Lovern*, 2015 WL 226230, at *1 (citing *Stevens*, 529 U.S. at 769); *see also Stoner v. Santa Clara Cty. Office of Educ.*, 502 F.3d 1116, 1125 (9th Cir. 2007) (the “partial assignment” of the government’s damages claim may permit a relator to

bring suit, but “it does not transform a *qui tam* action into the relator’s ‘own case’ for purposes of § 1654”).

That conclusion also constitutes good policy. If courts “were to allow a *qui tam* plaintiff to proceed *pro se*, the government could be bound by an adverse judgment in the action.” *Wojciki*, 947 F.3d at 244; *see also Flaherty*, 540 F.3d at 94 (same). And “because the FCA allows for one person to bring a *qui tam* action based on the specific underlying facts, allowing a *pro se* relator to pursue a claim could very well prevent another better-equipped plaintiff from pursuing the claim.” *Wojciki*, 947 F.3d at 244 (citing 31 U.S.C. § 3730(b)(5)).

This Court should therefore summarily affirm the district court’s order dismissing the relator’s *qui tam* claims.

II. The district court correctly dismissed relator’s attempt to seek relief under federal criminal statutes.

The district court also correctly dismissed plaintiff’s purported claims under 52 U.S.C. § 20701 and 18 U.S.C. § 1001(a)(2), which are federal criminal statutes. It is axiomatic that “a private party . . . cannot bring claims under criminal law or seek to compel the criminal investigation or

prosecution of the defendants.” *Volovets v. Clinton*, No. 22-5207, 2022 WL 5239553, at *1 (D.C. Cir. Oct. 6, 2022); *see also Bruns v. USAA*, No. 22-5011, 2022 WL 3568051, at *1 (D.C. Cir. Aug. 11, 2022) (same). That is because “a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.” *Clinton*, 2022 WL 5239553, at *1 (quoting *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973)). Indeed, “the power to decide when to investigate and prosecute lies in the Executive Branch and judicial authority is ‘non-existent’ when the court is asked to intrude into the process of prosecutorial decisionmaking by a party without standing to raise the claim.” *Id.* (citing *Cnty. For Creative Non-Violence v. Pierce*, 786 F.2d 1199, 1201 (D.C. Cir. 1986)).

This Court should therefore summarily affirm the dismissal of plaintiff’s claims under 52 U.S.C. § 20701 and 18 U.S.C. § 1001(a)(2).

CONCLUSION

For the foregoing reasons, this Court should summarily affirm the district court's order dismissing this case.

Respectfully submitted,

CHARLES W. SCARBOROUGH
(202) 514-1927

/s/ Graham White

GRAHAM WHITE
(202) 514-4052

Attorneys, Appellate Staff
Civil Division
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Room 7230
Washington, D.C. 20530

NOVEMBER 2024

EXHIBIT 3

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 24-7134

September Term, 2024

1:23-cv-03467-CJN

Filed On: March 14, 2025 [2105847]

United States of America, ex rel. Danilo
Augusto Feliciano,

and

Danilo Augusto Feliciano,

Appellant

v.

Robert Kyle Ardoin, Louisiana Secretary of
State, et al.,

Appellees

United States of America,
Intervenor

M A N D A T E

In accordance with the order of February 4, 2025, and pursuant to Federal Rule of Appellate Procedure 41, this constitutes the formal mandate of this court.

FOR THE COURT:
Clifton B. Cislak, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk

Link to the order filed February 4, 2025

EXHIBIT 4

ALERT: SEVERE WEATHER IN THE SOUTHEAST AND CENTRAL U.S AND WINTER STORMS IN ...

USPS Tracking®

[FAQs >](#)

Tracking Number:

[Remove X](#)

9505515898005064967657

[Copy](#)[Add to Informed Delivery \(https://informeddelivery.usps.com/\)](https://informeddelivery.usps.com/)

Latest Update

Your item was delivered to the front desk, reception area, or mail room at 11:17 am on March 19, 2025 in WASHINGTON, DC 20001.

Get More Out of USPS Tracking:

[USPS Tracking Plus®](#)

Delivered

Delivered, Front Desk/Reception/Mail Room

WASHINGTON, DC 20001

March 19, 2025, 11:17 am

Departed USPS Regional Facility

WASHINGTON DC DISTRIBUTION CENTER

March 10, 2025, 2:46 am

Arrived at USPS Regional Destination Facility

WASHINGTON DC DISTRIBUTION CENTER

March 9, 2025, 7:41 am

Arrived at USPS Regional Facility

WASHINGTON DC DISTRIBUTION CENTER

March 8, 2025, 3:44 pm

In Transit to Next Facility

March 8, 2025, 3:22 pm

[Feedback](#)

- **Departed USPS Regional Facility**
WASHINGTON DC DISTRIBUTION CENTER
March 8, 2025, 3:15 pm
- **Arrived at USPS Regional Facility**
WASHINGTON DC DISTRIBUTION CENTER
March 8, 2025, 1:05 pm
- **In Transit to Next Facility**
March 8, 2025, 11:52 am
- **In Transit to Next Facility**
March 7, 2025, 8:36 pm
- **In Transit to Next Facility**
March 7, 2025, 2:31 pm
- **Departed USPS Regional Facility**
NORTH HOUSTON TX DISTRIBUTION CENTER
March 7, 2025, 10:02 am
- **Arrived at USPS Regional Facility**
NORTH HOUSTON TX DISTRIBUTION CENTER
March 6, 2025, 9:17 pm
- **USPS in possession of item**
NEW ORLEANS, LA 70113
March 5, 2025, 12:56 pm

[Hide Tracking History](#)

What Do USPS Tracking Statuses Mean? (<https://faq.usps.com/s/article/Where-is-my-package>)

Text & Email Updates



Select what types of updates you'd like to receive and how. Send me a notification for:

Text **Email**

All Below Updates

EXHIBIT 5

ALERT: SEVERE WEATHER IN THE SOUTHEAST AND CENTRAL U.S AND WINTER STORMS IN ...

USPS Tracking®

[FAQs >](#)

Tracking Number:

[Remove X](#)**9505515897965070196889**[Copy](#)[Add to Informed Delivery \(https://informeddelivery.usps.com/\)](https://informeddelivery.usps.com/)

Latest Update

Your item was delivered to the front desk, reception area, or mail room at 2:01 pm on March 26, 2025 in WASHINGTON, DC 20001.

Get More Out of USPS Tracking:

[USPS Tracking Plus®](#)[Feedback](#)

Delivered

Delivered, Front Desk/Reception/Mail Room

WASHINGTON, DC 20001

March 26, 2025, 2:01 pm

Out for Delivery

WASHINGTON, DC 20001

March 26, 2025, 6:10 am

Arrived at Post Office

WASHINGTON, DC 20018

March 26, 2025, 4:11 am

Arrived at USPS Regional Destination Facility

WASHINGTON DC DISTRIBUTION CENTER

March 25, 2025, 10:20 pm

In Transit to Next Facility

March 19, 2025

- **Arrived at USPS Regional Facility**
FORT MYERS FL DISTRIBUTION CENTER
March 15, 2025, 4:25 pm
- **USPS in possession of item**
NEW ORLEANS, LA 70113
March 11, 2025, 1:09 pm
- [Hide Tracking History](#)

What Do USPS Tracking Statuses Mean? (<https://faq.usps.com/s/article/Where-is-my-package>)

Text & Email Updates



USPS Tracking Plus®



Product Information



[See Less](#) ^

[Track Another Package](#)

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

[FAQs](#)