

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 24-5204

September Term, 2024

1:23-cv-00216-CJN

Filed On: December 23, 2024

Allan Douglas Wilson,

Appellant

v.

United States Department of State and
United States Embassy Philippines,

Appellees

BEFORE: Katsas, Childs, and Garcia, Circuit Judges

ORDER

Upon consideration of the motion for summary affirmance and the opposition thereto, 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 concluded that appellant's claim for injunctive relief was moot. See Chafin v. Chafin, 568 U.S. 165, 172 (2013). The district court also properly dismissed appellant's claim for damages. An action under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq., must be brought against the United States, not the allegedly offending agency; and an action under Bivens v. Six Unknown Fed. Narcotics Agents, 403 U.S. 388 (1971), may not be brought against a federal agency. See FDIC v. Meyer, 510 U.S. 471, 476, 486 (1994). Appellant does not have a cause of action under 42 U.S.C. § 1983, which does not reach the actions of the federal government. See District of Columbia v. Carter, 409 U.S. 418, 424 (1973). And no private right of action exists under 18 U.S.C. § 242. See Keyter v. Bush, No. 04-5324, 2005 WL 375623, at *1 (D.C. Cir. Feb. 16, 2005). Finally, the district court correctly denied appellant's motion under 28 U.S.C. § 1782 to preserve evidence. See Al Fayed v. CIA, 229 F.3d 272, 274-77 (D.C. Cir. 2000) (concluding that the federal government is excluded from the definition of a "person" subject to discovery under § 1782).

Appendix 'A'

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALLAN DOUGLAS WILSON,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE, *et al.*,

Defendants.

Civil Action No. 1:23-cv-0216 (CJN)

ORDER

Allan Wilson alleges that he was targeted by surveillance for over two decades and that the radio waves used in that surveillance caused him physical harm. Apparently believing that he would be exempt from surveillance if the Government were to recognize him as a citizen of the United States, in 2022 Wilson sought a U.S. passport at the U.S. Embassy in the Philippines. The Government initially denied his request, and Wilson brought this lawsuit against the Department of State and the Embassy for injunctive relief and damages. The Government then issued Wilson a passport, and Defendants moved to dismiss. Wilson responded with a motion for summary judgment.

Wilson is proceeding pro se, and so the Court holds his complaint “to less stringent standards than formal pleadings drafted by lawyers.” *Haines v. Kerner*, 404 U.S. 519, 520 (1972). The Court nonetheless grants Defendants’ motion to dismiss because Wilson cannot show that he is entitled to any of the relief he seeks.

First, Wilson requests an injunction ordering the State Department to issue him a U.S. passport, believing that being declared a U.S. citizen will give him constitutional protections against surveillance. Whether or not this is generally a cognizable claim, it is no longer one here;

the State Department already issued Wilson the passport he seeks, so his request for an injunction is moot. *See* ECF 28-1 at 3. And to the extent Wilson instead asks us to order the State Department to give him an “admission of negligence or wrongdoing” and to “acknowledge the existence of a mistake,” ECF 28 at 4, those are not legally cognizable interests under Article III. *See Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) (“No matter how vehemently the parties continue to dispute the lawfulness of the conduct that precipitated the lawsuit, the case is moot if the dispute ‘is no longer embedded in any actual controversy about the plaintiffs’ particular legal rights.’” (quoting *Alvarez v. Smith*, 558 U.S. 87, 93 (2009))).

Second, Wilson also seeks legal fees of \$402 and punitive damages of \$2,377,500, alleging that the State Department’s initial denial of his passport violated his constitutional rights. He repudiates any claim based on the Foreign Intelligence Surveillance Act, *see* ECF 28 at 5, and instead points to four possible sources of a remedy for his claim: (1) 42 U.S.C. § 1983; (2) 18 U.S.C. § 242; (3) the damages remedy created in *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971); and (4) the Federal Tort Claims Act (FTCA).

Putting aside issues of sovereign immunity, none of those sources gives Wilson a cause of action to sue for damages. 42 U.S.C. § 1983 provides remedies against states, not the federal government. *See District of Columbia v. Carter*, 409 U.S. 418, 424 (1973). 18 U.S.C. § 242 creates criminal penalties for illegally depriving a person’s constitutional rights, but courts typically do not “infer a private right of action from a criminal prohibition alone.” *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 190 (1994). The *Bivens* remedy is available only for actions against individual officers, *see F.D.I.C. v. Meyer*, 510 U.S. 471, 486 (1994), whereas Wilson has sued only the State Department and the U.S. Embassy in the Philippines. And Wilson cannot bring an FTCA claim because he has not sued the United States

directly, *see Goddard v. D.C. Redevelopment Land Agency*, 287 F.2d 343, 345 (D.C. Cir. 1961), and because his claimed injuries occurred outside of the United States, *see Sosa v. Alvarez-Machain*, 542 U.S. 692, 712 (2004).

Last, Wilson recently filed a separate motion seeking an order pursuant to 28 U.S.C. § 1782, which allows district courts to order a “person” to “give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal.” Wilson asks us to order the Central Intelligence Agency (CIA) to preserve any records about a Privacy Act request that he made to the CIA earlier this year, arguing that the records may be useful in separate proceedings involving him in Canada. This request is procedurally unusual; motions under § 1782 are typically brought as standalone suits, sometimes *ex parte* and sometimes against the party targeted by the discovery request. The CIA, meanwhile, is neither a party to this case nor involved in the actions for which Wilson brings this case. Regardless, in another case involving the CIA, the Court of Appeals held that § 1782 does not grant courts the power to issue a subpoena to a federal agency because the CIA is not a “person” within the meaning of § 1782. *See Al Fayed v. C.I.A.*, 229 F.3d 272, 274–77 (D.C. Cir. 2000).

Accordingly, it is **ORDERED** that the complaint is **DISMISSED** without prejudice. It is further **ORDERED** that Plaintiff’s motion for partial summary judgment and motion for an order to preserve evidence are **DENIED**.

This is a final appealable order.

The Clerk is directed to terminate the case.

DATE: September 5, 2024



CARL J. NICHOLS
United States District Judge

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 24-5204

September Term, 2024

1:23-cv-00216-CJN

Filed On: April 22, 2025

Allan Douglas Wilson,

Appellant

v.

United States Department of State and
United States Embassy Philippines,

Appellees

BEFORE: Katsas, Childs, and Garcia, Circuit Judges

ORDER

Upon consideration of the petition for rehearing, it is

ORDERED that the petition be denied.

The Clerk is directed to accept no further submissions from appellant in this closed case.

Per Curiam

FOR THE COURT:

Clifton B. Cislak, Clerk

BY: /s/

Daniel J. Reidy
Deputy Clerk

Appendix 'C'

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