

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5090**September Term, 2019****1:20-cv-00379-UNA****Filed On: June 24, 2020**

Ronald Satish Emrit,

Appellant

v.

Federal Bureau of Investigation,

Appellee

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

BEFORE: Henderson, Griffith, and Katsas, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on appellant's brief, which includes requests for judicial notice, and the supplement to the brief. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing, and the motion to supplement the record, which also includes requests for judicial notice, it is

ORDERED that the motion to supplement the record be denied. Appellant has not shown that supplementation of the record on appeal is appropriate under Federal Rule of Appellate Procedure 10(e)(2)(C), or that it "would establish beyond any doubt the proper resolution of the pending issues" or that it is otherwise "in the interests of justice." Colbert v. Potter, 471 F.3d 158, 166 (D.C. Cir. 2006) (internal citations and quotation marks omitted). It is

FURTHER ORDERED that appellant's request for judicial notice be dismissed as moot in part and denied in part. "No motion is required for the court to consider materials that are part of the district court's record." See Crumpacker v. Ciraolo-Klepper, 715 Fed. Appx. 18, 19 (D.C. Cir. 2018). And the additional alleged facts that appellant requests to be noticed would not impact the disposition of this

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appeal. See Larson v. Dep't of State, 565 F.3d 857, 870 (D.C. Cir. 2009). It is

FURTHER ORDERED AND ADJUDGED that the district court's order, filed April 6, 2020, be affirmed. To the extent appellant sought to raise a claim under the Federal Tort Claims Act ("FTCA") against the Federal Bureau of Investigation for monetary damages, appellant failed to demonstrate that he exhausted his administrative remedies. See McNeil v. United States, 508 U.S. 106, 113 (1993); 28 U.S.C. § 2675(a) (explaining "[a]n action shall not be instituted . . . unless the claimant shall have first presented the claim to the appropriate Federal agency"); Simpkins v. District of Columbia Gov't, 108 F.3d 366, 371 (D.C. Cir. 2007) ("This court and the other courts of appeals have treated the FTCA's requirement of filing an administrative complaint with the appropriate agency prior to instituting an action as jurisdictional."). Additionally, to the extent appellant sought to raise constitutional tort claims, those are barred by sovereign immunity. See FDIC v. Meyer, 510 U.S. 471, 478 (1994) (explaining the United States "has not rendered itself liable under [the FTCA] for constitutional tort claims").

Lastly, appellant has not challenged the grounds for the district court's decision, and has therefore forfeited any possible arguments. See United States ex rel. Totten v. Bombardier Corp., 380 F.3d 488, 497 (D.C. Cir. 2004) ("Ordinarily, arguments that parties do not make on appeal are deemed to have been waived.").

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/

Daniel J. Reidy

Deputy Clerk