

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-1543

RON CHILDRESS,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee,

and

STELLA DONELAN, Terminated,

Defendant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Robert J. Conrad, Jr., Chief District Judge. (3:07-cv-03312-RJC)

Submitted: December 1, 2008

Decided: December 22, 2008

Before WILKINSON and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Everett J. Mercer, THE MILES LAW FIRM, Sumter, South Carolina, for Appellant. W. Walter Wilkins, United States Attorney, Terri Hearn Bailey, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ron Childress brought this action against federal employee, Stella Donelan, in a South Carolina state court alleging defamation and tortious interference with contractual relations. After the United States Attorney certified that Donelan was acting within the scope of her employment at the time of the conduct alleged in the complaint, the United States, pursuant to the Federal Employees Liability Reform and Tort Compensation Act of 1988, 28 U.S.C. § 2679 (2000), substituted itself as defendant in Childress's action, removed the action to federal court, and then moved pursuant to Fed. R. Civ. P. 12(b)(1) to have Childress's action dismissed for lack of subject matter jurisdiction.

Although Childress opposed the United States' substitution, the district court determined that Donelan was acting within the scope of her employment at the time of the conduct alleged in Childress's complaint, denied Childress's motion to deny the United States' substitution, and granted the United States' motion to dismiss Childress's state law tort claims.* We have reviewed the record and find no reversible

* It was undisputed that if the United States was correctly substituted as defendant in Childress's action, the action was subject to Rule 12(b)(1) dismissal. See 28 U.S.C. § 2680(h) (2000); Goldstar (Panama) S.A. v. United States, 967 F.2d 965, 967 (4th Cir. 1992).

error. Accordingly, we affirm for the reasons stated by the district court. See Childress v. United States, No. 3:07-cv-03312-RJC (D.S.C. filed Mar. 13, 2008; entered Mar. 14, 2008). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED