

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6085

KABIL ANTON DJENASEVIC,

Plaintiff - Appellant,

v.

UNITED STATES DEPARTMENT OF JUSTICE; UNITED STATES FEDERAL
BUREAU OF PRISONS; FEDERAL CORRECTIONAL INSTITUTION BECKLEY
HEALTH SERVICE DEPARTMENT; UNITED STATES OF AMERICA,

Defendants - Appellees,

and

DR. HUGHES, DDS,

Defendant.

Appeal from the United States District Court for the Southern
District of West Virginia, at Beckley. Irene C. Berger,
District Judge. (5:14-cv-14596)

Submitted: July 20, 2016

Decided: August 3, 2016

Before NIEMEYER, AGEE, and HARRIS, Circuit Judges.

Affirmed in part, vacated in part, and remanded by unpublished
per curiam opinion.

Kabil Anton Djenasevic, Appellant Pro Se. Stephen Michael Horn,
Assistant United States Attorney, Charleston, West Virginia, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kabil Anton Djenasevic appeals the district court's orders accepting the recommendations of the magistrate judge and denying relief on his complaint filed under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b)(1), 2671-2680 (2012), and denying his request for leave to amend his complaint.

The district court originally rejected Djenasevic's request to amend as moot based on its dismissal of his original complaint. That dismissal was, however, vacated by this court's decision in Djenasevic v. U.S. Dep't of Justice, 604 F. App'x 328 (4th Cir. June 16, 2015) (No. 15-6076). On remand, the court did not directly rule on the request to amend. Federal Rule of Civil Procedure 15(a)(2) provides that "[t]he court should freely give leave [to amend] when justice so requires," which we have construed to mean "that leave to amend a pleading should be denied only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would have been futile." Laber v. Harvey, 438 F.3d 404, 426 (4th Cir. 2006) (en banc) (internal quotation marks omitted). Because the district court has not ruled on the merits of Djenasevic's request to amend, we remand for the district court to specifically address Djenasevic's request and any Government response.

Turning to Djenasevic's FTCA claim, we have reviewed the record and find no reversible error. Accordingly, we affirm the disposition of that claim for the reasons stated by the district court. Djenasevic v. U.S. Dep't of Justice, No. 5:14-cv-14596 (S.D. W. Va. Jan. 11, 2016).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED IN PART,
VACATED IN PART,
AND REMANDED