

United States Court of Appeals for the Fifth Circuit

No. 23-10758
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
December 29, 2023

Lyle W. Cayce
Clerk

ROBERT KREB,

Plaintiff—Appellant,

versus

INTEGRA AVIATION, L.L.C., *doing business as* APOLLO MED FLIGHT; APOLLO MED FLIGHT, L.L.C.; PANAVIA AIR TAXI, L.L.C., *doing business as* HAVEN AERO, L.L.C.; HAVEN AERO, L.L.C.; FLIGHT MECHANIX, L.L.C.; YOUNG FIRM, P.C.; LEE McCAMMON, *Corporate Officer of Apollo*; THOMAS L. KLASSEN, *Director of Operations*; JOSEPH H. BELSHA, III, *Chief Pilot*; WHITNEY SMITH, *Vice President of Human Resources*; TRAVIS LAMANCE, *Director of Maintenance*; JEREMI K. YOUNG; SECRETARY, *United States Department of Labor*,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:23-CV-88

Before SMITH, HIGGINSON, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 23-10758

Robert Krebs, a pilot, was fired by Integra Aviation after his repeated reports that his flight operation assignments did not comply with federal aviation regulations. He sued, *pro se*, various private parties and the Secretary of Labor, claiming violations of the Privacy Act of 1974 and the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, and asserting libel, defamation, and slander under state law. Those claims were also pending before the Department of Labor. Krebs sought a temporary restraining order to enjoin the DOL from initiating a review of his claims by an administrative law judge.

In a five-page order issued June 21, 2023, the district court denied the TRO and dismissed the action, without prejudice, for want of subject matter jurisdiction. We affirm that dismissal, essentially for the reasons assigned by the district court.

That court properly determined that the Administrative Procedure Act does not authorize judicial interference with an agency action that is not “final.” The court distinguished *Axon Enterprise, Inc. v. FTC*, 143 S. Ct. 890 (2023), because it involved a structural, constitutional claim, which Krebs’s suit does not. The district court also observed that the claims related to the non-federal defendants “are not yet fit for adjudication in federal court.” And the court noted that the suit includes non-diverse parties.

As carefully explained by the district court, the dismissal without prejudice is correct and is AFFIRMED.