

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-1437

DAVID BRANDFORD,

Plaintiff - Appellant,

v.

SHANNON-BAUM SIGNS, INC.,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Richard D. Bennett, District Judge. (1:11-cv-00836-RDB)

Submitted: July 21, 2016

Decided: July 25, 2016

Before SHEDD, AGEE, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

David Brandford, Appellant Pro Se. Patricia L. Payne, PAYNE & ASSOCIATES, LTD, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Brandford appeals from the district court's judgment denying relief on Brandford's discrimination and retaliation claims, brought pursuant to the Americans with Disabilities Act, 42 U.S.C. §§ 12101-12300 (2012); Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.A. §§ 2000e to 2000e-17 (West 2012 & Supp. 2015); and the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C.A. §§ 621 to 634 (West 2008 & Supp. 2015). The district court's judgment was entered in 2012, and affirmed by this court in 2013. See Brandford v. Shannon-Baum Signs, Inc., 519 F. App'x 817 (4th Cir. 2013) (No. 12-2116). Thus, this appeal is duplicative.

To the extent Brandford's appellate filings could be construed as a challenge to this court's 2013 opinion affirming the district court's judgment, the time for filing a rehearing petition expired long ago. See Fed. R. App. P. 40(a)(1) ("Unless the time is shortened or extended by order or local rule, a petition for panel rehearing may be filed within 14 days after entry of judgment."). Moreover, this court may recall its mandate to avoid injustice only in exceptional cases. See Alphin v. Henson, 552 F.2d 1033, 1035 (4th Cir. 1977). "The sparing use of the power demonstrates it is one of last resort, to be held in reserve against grave, unforeseen contingencies." Calderon v. Thompson, 523 U.S. 538, 550 (1998). Brandford's is

not an "exceptional case[]" and, thus, the district court's judgment is not subject to relitigation before this court. Accordingly, we deny Brandford's application to proceed in forma pauperis and dismiss the appeal. 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.

DISMISSED