

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-1522

UNITED STATES OF AMERICA ex rel. KENNETH P.
BROOKS,

Plaintiff - Appellant,

versus

LOCKHEED MARTIN CORPORATION; LOCKHEED MARTIN
ENERGY SYSTEMS, INCORPORATED; LOCKHEED MARTIN
UTILITY SERVICES, INCORPORATED,

Defendants - Appellees.

Appeal from the United States District Court for the District of
Maryland, at Greenbelt. Benson Everett Legg, Chief District Judge.
(8:00-cv-01088-BEL)

Submitted: October 27, 2006

Decided: February 23, 2007

Before TRAXLER, KING, and SHEDD, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam
opinion.

Kenneth P. Brooks, Appellant Pro Se. Glenn V. Whitaker, VORYS,
SATER, SEYMOUR & PEASE, Cincinnati, Ohio, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth P. Brooks, a pro se litigant, appeals from the district court's order dismissing his False Claims Act complaint. Lockheed Martin has moved to dismiss the appeal, arguing that Brooks cannot pursue his action pro se.* We grant the motion in part and dismiss the *qui tam* claims. We affirm the district court's dismissal of Brooks' retaliation claim.

A lay person may not bring a *qui tam* action under the False Claims Act. See United States ex rel. Lu v. Ou, 368 F.3d 773, 775-76 (7th Cir. 2004). Although a *qui tam* relator is entitled by statute to a share of the recovery if his action is successful, see 31 U.S.C. § 3730(d) (2000), the United States is the real party in interest, and the need for adequate legal representation on behalf of the United States counsels against permitting pro se suits. See United States ex rel. Milam v. Univ. of Tex., 961 F.2d 46, 50 (4th Cir. 1992). Accordingly, we grant Lockheed Martin's motion in part and dismiss Brooks' *qui tam* claims.

With regard to Brooks' claim of retaliatory discharge under 31 U.S.C. § 3730(h) (2000), such a claim may be brought pro se, because it is not a claim on behalf of the Government. However, our review of the record shows that this claim was

*Brooks was represented by counsel in district court but is pursuing his appeal pro se.

untimely filed. Thus, we affirm the dismissal of this claim for the reasons stated by the district court. United States ex rel. Brooks v. Lockheed Martin Corp., No. 8:00-cv-01088-BEL (D. Md. Mar. 27, 2006). 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.

DISMISSED IN PART;
AFFIRMED IN PART