

)	
JOHN R. PERRY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 08-0033 (ESH)
)	
UNITED STATES POSTAL SERVICE, <i>et al.</i>,)	
)	
Defendant.)	
)	

Defendants have moved to dismiss plaintiff's *pro se* complaint wherein plaintiff alleges that his termination from the United States Postal Service ("USPS") was unlawful.¹ According to defendants' motion, this termination was upheld by the Merit Systems Protection Board ("MSPB") in *Perry v. U.S. Postal Serv.*, 46 M.S.P.R. 425 (1990), *aff'd*, 937 F.2d 623 (Fed. Cir. 1991) (unpublished table decision). Thereafter, plaintiff filed two complaints in Superior Court in 1990 against the same MSPB officials who are named herein relating to his termination. These cases were removed to this Court. *See* Case Nos. 90-cv-497 (TFH) and 90-cv-1164 (LFO). Both of these cases were ultimately dismissed.

¹Plaintiff has failed to oppose this motion so the Court has the discretion to grant the motion as conceded under LCvR 7(b). The Court also has discretion to dismiss an action that is “frivolous” or “fails to state a claim on which relief may be granted.” *See* 28 U.S.C. § 1915(e)(2)(B).

before the MSPB almost two decades ago in plaintiff's prior case, *Perry v. U.S. Postal Serv.*, *supra*. Under the law, plaintiff is precluded from yet again challenging his termination from the USPS. Therefore, defendants' motion to dismiss [Dkt. # 12] is **GRANTED** and the above-captioned case is dismissed with prejudice.

This is a **final appealable order**. *See* Fed. R. App. P. 4(a).

/s/
ELLEN SEGAL HUVELLE
United States District Judge

DATE: April 16, 2008