

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-4181

CAPTAIN ANDREW SELBY,
Appellant

v.

CITY OF PATERSON; CHIEF MICHAEL POSTERINO

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

(D.C. Civil No. 07-cv-04206)

District Judge: The Honorable Dennis M. Cavanaugh

Submitted Under Third Circuit LAR 34.1(a)
November 20, 2008

Before: BARRY, CHAGARES, Circuit Judges, and RESTANI,* Judge

(Opinion Filed: December 19, 2008)

OPINION

* Honorable Jane A. Restani, Chief Judge, United States Court of International Trade,
sitting by designation.

BARRY, Circuit Judge

Captain Andrew Selby's motion for a Temporary Restraining Order/Preliminary Injunction to prevent defendants from proceeding with disciplinary action against him was denied by order dated October 24, 2007 and entered on the docket the following day. Notice of appeal from the denial was filed on October 29, 2007. By order dated October 30, 2007 and entered on the docket November 1, 2007, the District Court dismissed the action as to all defendants without prejudice. No appeal was taken from the dismissal, and the earlier appeal cannot be deemed premature within the meaning of Fed.R.App.P. 4(a)(2).

There being no action pending in the District Court, the appeal from the denial of the Temporary Restraining Order/Preliminary Injunction will be dismissed as moot.