

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-13285

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT MARCH 12, 2007 THOMAS K. KAHN CLERK

D. C. Docket No. 04-00810 CV-5-IPJ

CALVIN LEE HICKS, II,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Alabama

(March 12, 2007)

Before DUBINA and COX, Circuit Judges, and SCHLESINGER,* District Judge.

PER CURIAM:

*Honorable Harvey E. Schlesinger, United States District Judge for the Middle District of Florida, sitting by designation.

After reading the parties' briefs, reviewing the record, and conducting oral argument, we conclude that genuine issues of material fact exist in this case which preclude the grant of summary judgment. Accordingly, we vacate the district court's judgment and remand this case for a trial.

VACATED and REMANDED.