

United States Court of Appeals  
For the Eighth Circuit

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No. 17-2338

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Kevin Pennington

*Plaintiff - Appellant*

v.

Arkansas Game & Fish Commission, originally named as Arkansas Game and Fish

*Defendant - Appellee*

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Appeal from United States District Court  
for the Eastern District of Arkansas - Little Rock

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Submitted: March 1, 2018  
Filed: March 9, 2018  
[Unpublished]

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Before GRUENDER, MURPHY, and SHEPHERD, Circuit Judges.

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PER CURIAM.

Kevin Pennington appeals the district court's<sup>1</sup> adverse grant of summary judgment in his employment-discrimination action against his former employer, the

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<sup>1</sup>The Honorable Susan Webber Wright, United States District Judge for the Eastern District of Arkansas.

Arkansas Game and Fish Commission, in which he asserted claims of failure to promote, as well as discriminatory and retaliatory termination. Upon careful de novo review, we conclude that summary judgment was proper. See Gibson v. Am. Greetings Corp., 670 F.3d 844, 852-54 (8th Cir. 2012) (standard of review; in absence of direct evidence of discrimination, Title VII claims are analyzed under burden-shifting framework: if plaintiff establishes prima facie case, defendant may rebut by articulating legitimate nondiscriminatory reason for adverse employment action; in response, plaintiff must prove reason was pretextual); Twymon v. Wells Fargo & Co., 462 F.3d 925, 935 (8th Cir. 2006) (to prove pretext, plaintiff must both discredit asserted reason for adverse employment action and show that circumstances permit reasonable inference that real reason for adverse action was unlawful discrimination).

Accordingly, we affirm the judgment. See 8th Cir. R. 47B.

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(4:15-cv-00663-SWW)

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**ORDER**

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

April 13, 2018

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans