

March 5, 2019

My name is McKenzie Daniels and I filed my brief to be presented to the Supreme Court on January 16, 2019. I was told to file my brief within 90 days of my verdict from the Appeals Court. I had received my last correspondence from the Appeals Court on October 19, 2018. However, this was the mandate from the court. I am asking for permission to file my brief untimely, because I now realize it was a mistake made by me, as to when that 90 day period started.

My case has a profound effect on how age discrimination will be treated in the future. The Post Office stated in their summary judgment. "That it's not unlawful for the Post Office to use poor judgment in their hiring process. And if they choose to hire younger qualified employees does not necessarily indicate age discrimination. If this holds true then where does that leave the age discrimination in employment law (ADEA). And employer can use this excuse to combat any accusation.

When I filed I was under the impression that I was filing early 88 days to be exact, but I later found this was not the case. My brief and my \$300 filing fee was mailed back to me on January 23, 2019. As of yet I have not received my brief or my \$300 filing fee. But I was informed by the bank the check as not been cashed.

Sincerely,



RECEIVED
MAR - 7 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 19 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MCKENZIE DANIELS,

Plaintiff - Appellant,

v.

MEGAN J. BRENNAN, Postmaster
U.S. Postal Service,

Defendant - Appellee.

No. 17-56773

D.C. No. 2:14-cv-06731-JFW-PJW
U.S. District Court for Central
California, Los Angeles

MANDATE

The judgment of this Court, entered July 13, 2018, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Jessica F. Flores Poblano
Deputy Clerk
Ninth Circuit Rule 27-7

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

OCT 11 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

McKENZIE DANIELS,

Plaintiff-Appellant,

v.

MEGAN J. BRENNAN, Postmaster U.S.
Postal Service,

Defendant-Appellee.

No. 17-56773

D.C. No. 2:14-cv-06731-JFW-PJW
Central District of California,
Los Angeles

ORDER

Before: CANBY, W. FLETCHER, and CALLAHAN, Circuit Judges.

Daniels's petition for panel rehearing (Docket Entry No. 19) is denied.

No further filings will be entertained in this closed case.

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JUL 13 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

McKENZIE DANIELS,

No. 17-56773

Plaintiff-Appellant,

D.C. No. 2:14-cv-06731-JFW-PJW

v.

MEGAN J. BRENNAN, Postmaster U.S.
Postal Service,

MEMORANDUM*

Defendant-Appellee.

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Submitted July 10, 2018**

Before: CANBY, W. FLETCHER, and CALLAHAN, Circuit Judges.

McKenzie Daniels appeals pro se from the district court's summary judgment in his action alleging claims for age discrimination in violation of the Age Discrimination in Employment Act ("ADEA") and breach of contract. We

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Tritz v. U.S. Postal Serv.*, 721 F.3d 1133, 1136 (9th Cir. 2013) (subject matter jurisdiction); *Vasquez v. County of Los Angeles*, 349 F.3d 634, 639 (9th Cir. 2004) (summary judgment). We may affirm on any ground supported by the record. *Tritz*, 721 F.3d at 1136. We affirm.

The district court properly granted summary judgment on Daniels's age discrimination claim because Daniels failed to raise a genuine dispute of material fact as to whether he was not rehired because of his age, and whether the legitimate, non-discriminatory reason for defendant's actions was pretextual. *See Whitman v. Mineta*, 541 F.3d 929, 932 (9th Cir. 2008) (explaining prima facie elements for age discrimination); *see also Shelley v. Geren*, 666 F.3d 599, 607, 609-10 (9th Cir. 2012) (explaining that *McDonnell Douglas* framework applies to ADEA claims on summary judgment and explaining how a plaintiff can prove pretext).

The district court incorrectly concluded that it lacked subject matter jurisdiction over Daniels's breach of contract claim. *See Tritz*, 721 F.3d at 1138-39 (explaining that district courts have jurisdiction over contract claims against the U.S. Postal Service, regardless of the amount in controversy). However, summary judgment was proper because Daniels failed to raise a genuine dispute of material fact as to whether defendant breached any settlement agreements. *See id.* at 1140

(affirming dismissal of breach of contract claims based on breach of settlement agreements on alternate ground that plaintiff's pro se complaint failed to state a claim that would entitle her to relief). Contrary to Daniels's contention, the settlement agreements do not show that he was promised a job as a mail handler.

AFFIRMED.

**Additional material
from this filing is
available in the
Clerk's Office.**