

May 26, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-50479
Summary Calendar

YOLANDA M. MERLA,
Plaintiff - Counter Defendant - Appellant,

versus

SAN ANTONIO INDEPENDENT SCHOOL DISTRICT, ET AL.,
Defendants - Counter Claimants - Appellees.

YOLANDA M. MERLA,
Plaintiff-Appellant,

versus

SAN ANTONIO INDEPENDENT SCHOOL DISTRICT,
Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas, San Antonio Division
USDC No. SA-02-CA-0277-WWJ

Before JOLLY, DAVIS, and OWEN, Circuit Judges.

W. EUGENE DAVIS, Circuit Judge:*

* Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R.

Plaintiff Yolanda Merla appeals the dismissal on motion for summary judgment of her employment related claims against the San Antonio Independent School District and two of its employees. Merla's case arises from the termination of her employment after she exhausted the school district's two year disability limit and failed to return to work. Based on our review of the district court's opinion, the briefs and the record, we conclude that the district court did not err in granting summary judgment in favor of the defendants and dismissing Merla's claims.

Assuming Merla's termination was an adverse employment action, Merla failed to present sufficient evidence to establish a prima facie case of Title VII gender discrimination or retaliation, age discrimination under the ADEA, or § 1983 violation of due process in relation to handling of six grievances Merla filed with the Texas Education Agency. The district court also did not err in dismissing Merla's pendant state claims without prejudice. Merla raised no objections to dismissal of her other claims against the defendants. In summary, the district court properly concluded that Merla failed to established that the termination of her employment was based on anything other than a neutral, non-discriminatory policy of limiting disability leave. Nothing in Merla's Rule 59 motion undermines that conclusion.

47.5.4.

Merla's pro se briefs raise numerous complaints about the deficiency of her attorney's representation. However, this appeal is not the appropriate forum to address those issues.

Accordingly, for the reasons stated above and in the district court's Memorandum Opinion filed July 21, 2004 and Memorandum Opinion and order filed February 14, 2005, we affirm the judgment of the district court.¹

AFFIRMED

¹We deny appellant's motions for sanctions and to correct procedural errors and subsequent rulings and pleadings.