

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-60179  
Summary Calendar

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BRENDA VARNADO,

Plaintiff-Appellant,

v.

CITY OF PICAYUNE, MISSISSIPPI,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Mississippi  
(99-CV-273)

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October 8, 2001

Before DAVIS, BENAVIDES and STEWART, Circuit Judges.

PER CURIAM:\*

Brenda Varnado, a 49 year old female, was a patrol commander with the police force of the City of Picayune, Mississippi. She was fired in November of 1998 and replaced in her former position by a 34 year old male. She then sued the City, asserting theories of age and sex discrimination, violation of her right to due process, and various state tort and contract claims. The district court granted summary judgment to the City on all of Varnado's claims in February of 2001.

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\*Pursuant to 5th Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

Concerning her age and sex discrimination claims, Varnado argues that the district court erred in holding that she did not make out a prima facie case of discrimination. Assuming without deciding that Varnado made out a prima facie case, the City articulated a legitimate, nondiscriminatory reason for Varnado's firing. In particular, the City produced summary judgment evidence that Varnado was a poor patrol commander and that her conduct created low morale in the police force. Having made that showing, the burden shifted back to Varnado to show that the reason proffered by the City was pretextual. Evans v. City of Houston, 246 F.3d 344, 350 (5th Cir. 2001). Our review of the briefs and the record convinces us that Varnado made no such showing. Therefore, the district court's grant of summary judgment on Varnado's discrimination claims was proper.

Concerning Varnado's other claims, we affirm the judgment of the district court for the reasons given in its well-reasoned opinion of February 1, 2001. The judgment of the district court is therefore AFFIRMED.

AFFIRMED.