

August 1, 2003

Charles R. Fulbruge III
Clerk

In the
United States Court of Appeals
for the Fifth Circuit

m 03-50047
Summary Calendar

MILDRED BUTLER,

Plaintiff-Appellant,

VERSUS

DONALD H. RUMSFELD,
SECRETARY, DEPARTMENT OF DEFENSE,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
m W-02-CV-134

Before JOLLY, HIGGINBOTHAM, and SMITH,
Circuit Judges.

Mildred Butler appeals the dismissal of her
suit brought under title VII and the Age Dis-

PER CURIAM:*

(...continued)

determined that this opinion should not be pub-
lished and is not precedent except under the limited
circumstances set forth in 5TH CIR. R. 47.5.4.

* Pursuant to 5TH CIR. R. 47.5, the court has
(continued...)

crimination in Employment Act of 1967. The district court explained its reasons for dismissal in a comprehensive memorandum opinion and order filed November 4, 2002, and entered the next day.

The district court opined that this action is barred by *res judicata*. We agree. As the district court noted, “No matter how Plaintiff may wish to characterize the current case, she is still essentially alleging that she was discriminated against because of her age, race, and prior complaints.” In Butler’s earlier action, the district court ruled that her dismissal was the result of poor performance, not discrimination; this court affirmed, and warned of sanctions if the litigation was further protracted.

AFFIRMED.