

FILED

August 17, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-10236
Conference Calendar

MARIA F. WALLACE,

Plaintiff-Appellant,

versus

FOLEY'S DEPARTMENT STORES, a subsidiary of
May Department Stores,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:03-CV-2939-D

Before HIGGINBOTHAM, DAVIS, and PICKERING, Circuit Judges.

PER CURIAM:*

Maria F. Wallace moves this court to proceed in forma pauperis ("IFP") in this appeal from the district court's dismissal of her discrimination suit brought pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. The district court dismissed the suit as barred by limitations. Wallace argues in her brief that the defendant failed to pay her wages and benefits due when she left her employment in October 1998. The record shows that Wallace did not file an EEOC

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

complaint until September 24, 2003, well beyond the required 300-day time period, and the district court correctly determined that the suit is time-barred. See Frank v. Xerox Corp., 347 F.3d 130, 136 (5th Cir. 2003).

Because Wallace has not demonstrated a nonfrivolous issue for appeal, her motion to proceed IFP is denied. See FED. R. APP. P. 24(a). Because this appeal is without arguable merit, it is dismissed as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2; see also Baugh v. Taylor, 117 F.3d 197, 201-02 (5th Cir. 1997).

MOTION FOR IFP DENIED; APPEAL DISMISSED.