

REVISED October 15, 2018

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 18-10246
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
October 12, 2018

Lyle W. Cayce
Clerk

DONISE WILKEY,

Plaintiff–Appellant,

versus

UNITED PARCEL SERVICE, INCORPORATED,

Defendant–Appellee.

Appeal from the United States District Court
for the Northern District of Texas
No. 3:16-CV-3486

Before SMITH, WIENER, and WILLETT, Circuit Judges.

PER CURIAM:*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 18-10246

Donise Wilkey was fired by United Parcel Service, Incorporated, and sued under the Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.* The district court granted the company’s motion for summary judgment, and Wilkey appeals.

The district court explained its decision in a thorough and convincing seventeen-page Memorandum Opinion and Order. Wilkey, then age 55, was discharged for dishonesty after an internal investigation revealed that she had instructed a subordinate to falsify records. The district court rejected Wilkey’s theory that the company selectively enforced its policies to the detriment of older employees.

The district court carefully examined the record and agreed with the company that Wilkey had produced no competent evidence that but for her age, she would not have been fired. The court explained that it “concludes that UPS’s explanation [dishonesty] constitutes a legitimate, nondiscriminatory reason for Wilkey’s termination” (citing cases). The court rejected Wilkey’s notion that there were similarly situated comparators: “Specifically, the alleged conduct of the proffered comparators was remote in time, involved different managers or decisionmakers, or involved different conduct.”

We have reviewed the record, the briefs, and the applicable law. The summary judgment is AFFIRMED, essentially for the reasons comprehensively elucidated by the district court.