

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 92-1726

Summary Calendar

---

JAY C. ALLEN,

Plaintiff-Appellant,

versus

U.S. POSTAL SERVICE,

Defendant-Appellee.

---

Appeal from the United States District Court  
for the Northern District of Texas  
(3:92 CV 0908 H)

---

(January 6, 1993)

Before KING, DAVIS, and WIENER, Circuit Judges.

PER CURIAM:\*

Jay C. Allen, proceeding pro se and in forma pauperis, brought this action against the United States Postal Service, alleging that his dismissal from the Postal Service constitutes a violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. Finding that Allen has failed to plead facts constituting a claim for illegal employment discrimination, the

---

\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, we have determined that this opinion should not be published.

district court dismissed Allen's claim as frivolous pursuant to 28 U.S.C. § 1915(d). Finding no error, we affirm.

I

Allen was dismissed from the Postal Service for engaging in drug-related activities. In his complaint, Allen alleged only that he "was entrapped to transfer many drugs at the Postal Service by an informant." So as to provide Allen with a full opportunity to state a claim under Title VII, the district court requested that Allen respond to the following interrogatory:

"What specific facts can you allege to establish that your discharge from employment constituted illegal discrimination on the basis of race, sex, age, religion or national origin?"

Allen responded,

I cannot allege a specific fact. I stated that the most people that were arrested when I was were black. The first time I filed . . . this action was because of entrapment. People told me I had to, because of one of the above reasons [stated in the interrogatory], then is when I [chose] race. I did not get any help or rights [told] to me. I was doing anything to keep from just getting entrapped.

An action filed in forma pauperis may be dismissed as frivolous pursuant to 28 U.S.C. § 1915(d) if the plaintiff's claims lack an arguable basis in either law or fact. See Neitzke v. Williams, 490 U.S. 319, 325, 109 S. Ct. 1827, 1831 (1989) ("[A] complaint, containing as it does both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis either in law or in fact."). To bring an actionable claim under Title VII, a plaintiff must plead that he was discharged from his employment on account of race, sex, age, religion or

national origin. See 42 U.S.C. § 2000e et seq.; Vaughn v. Edel, 918 F.2d 517, 521 (5th Cir. 1990);<sup>1</sup> see also Bernard v. Gulf Oil Corp., 890 F.2d 735, 745 (5th Cir. 1989) (a failure-to-promote case).

Admittedly, Allen's contention is simply that he was entrapped, not that he was discharged from the Postal Service on account of race, sex, age, religion, or national origin. In the absence of a claim actionable under Title VII, we affirm the district court's dismissal of this case as "frivolous" under 28 U.S.C. § 1915(d).

## II

For the foregoing reasons, we AFFIRM the district court's dismissal of Allen's action.

---

<sup>1</sup> In Vaughn, we held that:  
In a typical disparate treatment discharge case, the plaintiff must prove a prima facie case of discrimination by showing that (1) he is a member of a protected group; (2) he was qualified for the job that he held; (3) he was discharged; and (4) after his discharge, his employer filled the position with a person who is not a member of the protected group.  
918 F.2d at 521.