

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-5754  
Summary Calendar

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JULIAN W. BURKE,

Plaintiff-Appellant,

versus

ANTHONY M. FRANK, Postmaster  
General, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court for  
the Western District of Texas  
(SA 89 CV 1677)

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October 26, 1993

Before REAVLEY, SMITH and DeMOSS, Circuit Judges.

PER CURIAM:\*

In this employment discrimination case, Julian Burke claims the Postmaster General fired him because of his race, his color, his national origin, and his handicap. The district court dismissed the case for lack of jurisdiction. We affirm.

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\*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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Title VII, 42 U.S.C. § 2000e-16 (1981), is a federal employee's exclusive remedy for employment discrimination claims. *Rowe v. Sullivan*, 967 F.2d 186, 189 (5th Cir. 1992). The ADEA, 29 U.S.C. § 633a (1985), is the exclusive remedy for age-based discrimination claims. *Paterson v. Weinberger*, 644 F.2d 521, 524-25 (5th Cir. 1981). And, the Rehabilitation Act, 29 U.S.C. §§ 791, 794 and 794a(a) (1985 & Supp. 1993), is the exclusive remedy for a federal employee's handicap discrimination claims. *Prewitt v. United States Postal Serv.*, 662 F.2d 292, 304 (5th Cir. 1981). Both Title VII and the Rehabilitation Act require an employee to exhaust all administrative remedies before filing suit in federal court. *Id.*; *Brown v. GSA*, 425 U.S. 820, 832 (1976). The employee must first file a grievance with the EEOC within 30 days of his termination. 29 C.F.R. § 1613.214(a)(1)(i) (1987). After the EEOC rules on the grievance, the employee has 30 days to file his complaint in federal court.<sup>1</sup> 42 U.S.C. § 2000e-16(c). While the ADEA has a similar exhaustion requirement, the employee may circumvent this prerequisite by notifying the EEOC within 180 days of termination that he intends to file suit in federal court. 29 U.S.C. § 633a(d).

Burke failed to give notice of his ADEA claim, and he waited 13 months before filing a grievance with the EEOC. Because this was well beyond the 30 day filing period, the EEOC dismissed his

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<sup>1</sup> In 1991, Congress extended the 30-day filing deadline to 90 days. 42 U.S.C. § 2000e-16(c)(Supp. 1993). But when the EEOC decided Burke's grievance on September 28, 1989, this amendment was not in effect.

complaint as untimely. Burke was notified of the dismissal on September 30, 1989, and he filed his complaint in federal court on November 30, 1989, one month past the 30 day filing deadline. Accordingly, the district court dismissed Burke's complaint for lack of jurisdiction, and we affirm.

This is not the first time Burke has appeared before this court. In a prior appeal, we admonished him that sanctions would follow another frivolous appeal. *Burke v. Frank*, No. 92-5608 (5th Cir. Aug. 28, 1992). Burke is assessed double costs under FED. R. APP. P. 38 for ignoring this warning.

AFFIRMED.