IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 93-1753
Summary Calendar

BRENDA MARCH,

Plaintiff-Appellant,

VERSUS

MARVIN RUNYON, Postmaster General, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(3:91-CV-2000-J)

(May 27, 1994)

Before GARWOOD, SMITH, and DeMOSS, Circuit Judges.

JERRY E. SMITH, Circuit Judge:[*]

Brenda March, a disgruntled postal worker, appeals the dismissal of her title VII suit alleging race and handicap discrimination. Finding no error, we affirm.

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[*] Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

I.

March worked as a mark-up clerk for the U.S. Postal Service, a position involving heavy lifting. In October 1987, she suffered an on-the-job injury to her shoulder and subsequently suffered recurrent injuries to her shoulders in April and May 1988. In June 1989, March was notified that she was being fired for physical inability to perform the duties of a mark-up clerk.

March filed a grievance over her discharge pursuant to the provisions of the applicable collective bargaining agreement. The grievance was not resolved and the matter proceeded to arbitration. The arbitrator found that March was not entitled to light duty under the collective bargaining agreement.

March also filed an administrative complaint alleging that her termination was in retaliation, was based upon her handicap (shoulder injury) and her race (black), and was in reprisal for her previous complaint. An evidentiary hearing was held before an Equal Employment Opportunity Commission ("EEOC") administrative law judge ("ALJ"), who recommended a finding of handicap discrimination but found the evidence inconclusive as to race and reprisal discrimination. The Postal Service, however, rejected the ALJ's findings, and the Office of Federal Operations of the EEOC affirmed the Postal Service's decision.

March filed suit pro se in federal court, claiming that her discharge was based upon race discrimination and in reprisal for prior EEOC complaints, in violation of 42 U.S.C. § 2000e-16 (title VII). She also alleged that she was terminated based upon her handicap, in violation of the Rehabilitation Act of 1973, 29 U.S.C.

§ 791 et seq. The case was tried to the court on July 13, 1993, and at the conclusion of the plaintiff's case, judgment was entered in favor of the Postmaster General, pursuant to FED. R. CIV. P. 52(c).

II.

The district court's findings under rule 52(c) are reviewed for clear error. Southern Travel Club, Inc. v. Carnival Air Lines, 986 F.2d 125, 128 (5th Cir. 1993). The district court found that the position of a mark-up clerk required lifting of over 15-20 pounds and that the parties had stipulated that March could not lift more than 15-20 pounds. Consequently, March failed to establish a prima facie case of race discrimination as she was not "qualified." Furthermore, March failed to establish a prima facie case of retaliation, as she did not show a causal connection between protected title VII activity and her removal. Finally, the district court rejected March's handicap discrimination claim because she did not prove that she met the definition of "handicapped" under 29 C.F.R. § 1613.702(a).

As to the claim of race discrimination, it was March's burden to show that she was qualified for the position. Davis v. Chevron U.S.A., Inc., 14 F.3d 1082, 1087 (5th Cir. 1994). March's physical condition, rendering her unable to perform her responsibilities, plainly defeated her claim of discrimination. See id. Since March admitted that she could not lift more than twenty pounds and that

such lifting was a requirement for the job, the district court did not err in dismissing her claim.

As to the claim of handicap discrimination, March was required to show that she was handicapped within the meaning of 29 C.F.R. § 1613.702(a), which defines a handicapped individual as one who "(1) [h]as a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment." March failed to prove that she fell under the regulation's definition of "handicapped."

The term "major life activities" is defined as "functions, such as caring for one's self [sic], performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." Id. § 1613.702(c). March's injury does not limit her major life activities. Moreover, she presented no evidence of a record of impairment or having been regarded as impaired.

The district court's finding that March's inability to lift more than twenty pounds did not constitute a handicap was not clearly erroneous. See Chandler v. City of Dallas, 2 F.3d 1385, 1390-93 (5th Cir. 1993) (holding that an impairment affecting a narrow range of jobs is not substantially limiting and does not affect a major life activity), cert. denied, 114 S. Ct. 1386 (1994). Moreover, the Postal Service was not required to accommodate her by removing heavy lifting from her responsibilities. Bradley v. University of Tex. M.D. Anderson Cancer Ctr., 3 F.3d 922, 925 (5th Cir. 1993), cert. denied, 114 S. Ct. 1071 (1994).

As to the claim of retaliatory discharge, March was required to demonstrate a causal connection between her EEOC activities and her discharge. Shirley v. Chrysler First, Inc., 970 F.2d 39, 42 (5th Cir. 1992). She presented no evidence on this connection, and the district court did not err in concluding that she failed to establish a prima facie case.[1]

AFFIRMED.

[1] March failed to object to the various evidentiary ruling of which she complains on appeal. She argues that her pro se status entitles her to leeway. As we have said, however, "[t]hose who venture into federal court without the assistance of counsel cannot . . . be permitted to enjoy much or protracted advantage by reason of that circumstance."). Brinkmann v. Abner, 813 F.2d 744, 750 (5th Cir. 1987) (citation omitted).