

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 93-4834
Summary Calendar

WANDA SCROGGINS,

Plaintiff-Appellant,

VERSUS

ANTHONY M. FRANK, POSTMASTER GENERAL

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
(6:89cv564)

(November 19, 1993)

Before DAVIS, JONES and DUHÉ, Circuit Judges.

PER CURIAM:¹

Wanda Scroggins filed this action for relief from an alleged discriminatory discharge by the postal service. She alleged that she was fired because of her age and also in retaliation for prior EEO activity. In a bench trial, the district court dismissed Scroggins's reprisal claim at the close of her case in chief. Following trial, the court also dismissed Scroggins's age

¹Local 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

discrimination claim and issued findings of fact and conclusions of law. Plaintiff appealed and this court affirmed the dismissal of the age discrimination claim but remanded the case for entry of findings on the retaliation claim. In April 1993, the district court entered findings of fact and conclusions of law in explanation of its dismissal of Scroggins' retaliation claim. This appeal followed.

The district court's finding that Scroggins' EEO activity played no role in her employer's decision to discharge her is fully supported by the record. The district court concluded that Ms. Scroggins's direct supervisor had no knowledge before he decided to discharge Ms. Scroggins about her earlier EEO activity. Scroggins's supervising officer-in-charge, acting postmaster Mylan, denied that she was aware of Scroggins's contact with EEO before she decided to discharge Scroggins. The court's finding that Scroggins's EEO contact was unrelated to her discharge is fully supported by the other evidence in the case. Scroggins's earlier performance evaluations had been unfavorable. Scroggins herself admitted that she decided they were not going to keep her. This affirmative evidence together with the lack of any evidence that Scroggins's supervisors actually received notice of the EEO contact all support the finding of the district court.

Because the district court's findings are not clearly erroneous, its judgment is

AFFIRMED.