

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 94-10753
Summary Calendar

ROBERT F. SAILER,
Plaintiff-Appellant,

VERSUS

BURLINGTON NORTHERN RAILROAD CO.,
Defendant-Appellee.

Appeal from the United States District Court
For the Northern District of Texas

(4:93-CV-576-K)

(December 20, 1994)

Before KING, JOLLY and DeMOSS, Circuit Judges.

PER CURIAM:*

Sailer filed a complaint, *pro se*, in the United States District Court against Burlington Northern Railroad Company ("Burlington"), complaining that he had been discriminated against because of age in violation of the Age Discrimination in Employment Act and seeking reinstatement, back pay and punitive damages.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Burlington filed an answer denying the allegations of discrimination and affirmatively raising a defense of a binding obligation to arbitrate any disputes as to termination of employment between Sailer and Burlington. Burlington filed a motion for summary judgment, and in the alternative, for a stay of the proceeding pending arbitration. After thorough and careful analysis, the district court concluded that a binding agreement to arbitrate disputes between Sailer and Burlington did exist and accordingly stayed the proceeding pending completion of such arbitration. Sailer filed notice of appeal. In its appellate brief, Burlington asserts that this court lacks appellate jurisdiction because the order entered by the district court is not appealable under the provisions of 9 U.S.C. § 16. We agree. See McDermott International v. Underwriter's at Lloyds, 981 F.2d 744, 747 (5th Cir. 1993), *cert. denied* _____, U.S. ____ 113 S. Ct. 2442 (1993).

Appeal dismissed for lack of jurisdiction.