

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

November 19, 2019

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 19-30296

Summary Calendar  
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KEVIN STERLING,

Plaintiff - Appellant

v.

BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT; RYAN  
ZINKE, SECRETARY, U.S. DEPARTMENT OF THE INTERIOR,

Defendants - Appellees

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:17-CV-742  
\_\_\_\_\_

Before WIENER, HAYNES, AND COSTA, Circuit Judges.

PER CURIAM:\*

Plaintiff-Appellant Kevin Sterling, an African-American employee of the Bureau of Safety and Environmental Enforcement (“BSEE”) within the United States Department of the Interior (“DOI”), alleged that (1) he was denied a timely reclassification to a higher-paying position because of his race and (2) he suffered retaliation in the form of an increased workload, a further delay in

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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his reclassification, and a failure to receive back-pay because he filed an EEO complaint. Defendants-Appellees, the BSEE, the DOI, and Ryan Zinke, Secretary of the DOI, filed a Motion to Dismiss and/or Alternatively for Summary Judgment, seeking dismissal of Sterling's claims. The district court issued a thirty-nine page opinion, thoroughly considering the factual allegations and the law applicable to each of Sterling's claims, and concluded that Sterling had failed to establish a prima facie case of either employment discrimination or retaliation and dismissed his claims with prejudice.<sup>1</sup> Sterling timely filed a notice of appeal.

We have conducted a de novo review of the record on appeal, including the briefs of the parties and the exhaustive order and reasons of the district court, and, like the district court before us, we are convinced that Sterling failed to establish a prima facie case of either employment discrimination or retaliation. The district court's decision to grant the Defendants-Appellee's Motion to Dismiss and/or Alternatively for Summary Judgment was correct in light of the alleged facts and applicable law. The judgment of the district court is AFFIRMED.

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<sup>1</sup> The district court also dismissed Sterling's state law employment discrimination claim and his claims against improper Defendants. Sterling does not appeal those aspects of the district court's decision.