

February 17, 2010

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

TERRY UNRUH,

Plaintiff-Appellant,

v.

STATE OF COLORADO
DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

No. 09-1292
(D.C. No. 1:08-CV-00077-CMA-CBS)
(D. Colo.)

ORDER AND JUDGMENT*

Before **LUCERO, PORFILIO**, and **MURPHY**, Circuit Judges.

Appellant Terry Unruh, formerly employed as a prison guard by appellee, brought suit against appellee alleging discrimination and retaliation under Title VII of the Civil Rights Act of 1964. *See* 42 U.S.C. §§ 2000e-2, 2000e-3.

Ms. Unruh alleged that she was first transferred because she is a woman, then

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

retaliated against when she complained about the transfer, and finally constructively discharged. The district court granted summary judgment to appellee, holding that Ms. Unruh had failed to properly exhaust her administrative remedies as to all claims but constructive discharge, and that she had failed to make out a prima facie case of constructive discharge. Ms. Unruh appeals the grant of summary judgment.

We have jurisdiction over Ms. Unruh's appeal under 28 U.S.C. § 1291. We review the grant of summary judgment de novo, applying the same standard as that used by the district court. *Garrison v. Gambro, Inc.*, 428 F.3d 933, 935 (10th Cir. 2005). Summary judgment is appropriate "if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c).

We have reviewed the pleadings, the evidence of record, and the applicable law. We find no error in the decision of the district court to award summary judgment to appellee, and we therefore AFFIRM for substantially the reasons stated by that court in its opinion and order dated June 23, 2009.

Entered for the Court

John C. Porfilio
Circuit Judge