

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 20, 2026

Christopher M. Wolpert
Clerk of Court

MICHAEL FELDKAMP,

Plaintiff - Appellant,

v.

UNIVERSITY OF KANSAS HOSPITAL
AUTHORITY,

Defendant - Appellee.

No. 25-3185
(D.C. No. 2:24-CV-02220-JAR)
(D. Kan.)

ORDER AND JUDGMENT*

Before **HARTZ, KELLY**, and **CARSON**, Circuit Judges.

Michael Feldkamp sued his former employer alleging violations of the Age Discrimination in Employment Act of 1967 (ADEA) and wrongful termination under state law. The district court granted summary judgment in favor of the employer. Feldkamp appealed. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

I. Background

The University of Kansas Hospital Authority (KUHA) employed Feldkamp from 1991 until his termination on February 6, 2023. At the time of his termination, he was 63 years old and the Nuclear Cardiology Director under the supervision of Becky Captain, Director of Cardiovascular Clinical Practice.

Various events preceded Feldkamp's termination. The Joint Commission, a certification body responsible for organizational safety surveys, reported out-of-date protocols and policies in his department. Feldkamp's supervisors learned he was not following internal standards to repair a malfunctioning nuclear camera. And several employees, under his supervision and outside his department, filed complaints with human resources about Feldkamp's behavior. These complaints led to an investigation and interviews revealing allegations of communication issues, disrespectful behavior, and management issues. His most recent performance evaluation reflected these same issues.

Following the investigation Feldkamp met with human resources to review the concerns documented during the investigation. There, human resources and Feldkamp discussed that he questioned his staff about their interviews with human resources and the unresolved issues raised in his recent performance evaluation. He was then put on administrative leave. A month later, Vice President of Cardiac Services Barbara MacArthur determined Feldkamp's continued employment with KUHA was untenable based on his failure to adhere to internal procedures, poor

communication and management skills, and maltreatment of employees. As the decisionmaker, MacArthur terminated Feldkamp's employment in February 2023.

Feldkamp then initiated the underlying lawsuit against KUHA alleging he was unlawfully terminated because of his age.¹ The district court granted summary judgment in favor of KUHA. Feldkamp appealed.

II. Discussion

"We review the district court's grant of summary judgment de novo, applying the same legal standard as the district court." *BNSF Ry. Co. v. Hiatt*, 22 F.4th 1190, 1193 (10th Cir. 2022) (internal quotation marks omitted). Under that standard, we view the evidence in the light most favorable to the non-moving party. *Id.* Summary judgment is appropriate "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

Under the ADEA, it is unlawful for an employer "to discharge any individual . . . because of such individual's age." 29 U.S.C. § 623(a)(1). Because Feldkamp lacks any direct evidence for his ADEA claim, we analyze his claim under the *McDonnell Douglas* burden-shifting framework. *See McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802-804 (1973); *Markley v. U.S. Bank Nat'l Ass'n*, 59 F.4th 1072, 1081 (10th Cir. 2023). First, a plaintiff must establish a prima facie case of age discrimination. *See Hinds v. Sprint/United Mgmt. Co.*, 523 F.3d 1187, 1195

¹ Feldkamp does not challenge the district court's decision not to exercise supplemental jurisdiction over his state law claim, so we do not address it here.

(10th Cir. 2008). If the plaintiff succeeds, the employer must provide a “legitimate, nondiscriminatory reason for the adverse employment action.” *Id.* (internal quotation marks omitted). If the employer succeeds, the burden shifts back to the plaintiff to show the employer-provided justification is pretextual. *Id.* Only the district court’s conclusion that Feldkamp did not meet his pretext burden is at issue. So, on appeal, Feldkamp must show the district court erred in concluding there was no genuine issue of material fact as to whether KUHA’s reason for discharge was pretextual.

“Pretext can be inferred from evidence revealing weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the employer’s explanation for the termination.” *Macon v. United Parcel Serv., Inc.*, 743 F.3d 708, 714 (10th Cir. 2014) (internal quotation marks omitted). This court has identified three typical methods that show an employer’s stated reason for discharging an individual is pretextual:

(1) evidence that the defendant’s stated reason for the adverse employment action was false; (2) evidence that the defendant acted contrary to a written . . . policy prescribing the action to be taken by the defendant under the circumstances; or (3) evidence that the defendant acted contrary to an unwritten policy or contrary to the employer’s practice when making the adverse employment decision affecting the plaintiff.

Macon, 743 F.3d at 714 (brackets and internal quotation marks omitted). “[I]solated or ambiguous comments are too abstract to support a finding of discrimination.”

Mauldin v. Driscoll, 136 F.4th 984, 997 (10th Cir. 2025) (brackets and internal quotation marks omitted). No matter what evidence Feldkamp produces, “[t]he relevant inquiry is not whether the employer’s proffered reasons were wise, fair or

correct, but whether it honestly believed those reasons and acted in good faith upon those beliefs.” *Macon*, 743 F.3d at 714.

The district court concluded that Feldkamp met his prima facie burden of age discrimination and KUHA met its burden to provide a legitimate, nondiscriminatory reason for terminating his employment. But when it came to determining pretext, the district court concluded Feldkamp failed to show a genuine issue of material fact as to whether KUHA’s reasons for terminating his employment were pretextual. It determined Feldkamp’s arguments “either lack[ed] record support or [did] not render [KUHA’s] proffered reasons to be so weak, implausible, inconsistent, incoherent, or contradictory that a reasonable fact finder could find them unworthy of credence.” *Aplt. App. vol. IV at 925* (internal quotation marks omitted).

Specifically, the district court determined that Feldkamp’s evidence about fixing the malfunctioning nuclear camera did not address MacArthur’s assertion that he did not adhere to hospital guidelines for malfunctioning equipment. It also determined that Feldkamp’s argument that KUHA did not offer a progressive improvement plan (PIP) did not demonstrate that KUHA’s policies required the hospital to put him on one. Finally, it determined that Feldkamp failed to establish temporal proximity between Becky Captain’s comment about replacing older managers and his termination or have record support to show a nexus between the comment and termination. In sum, the district court observed that Feldkamp’s arguments were disagreements about, not refutations to, MacArthur’s perception about the underlying employee complaints, HR investigation results, and internal

policy requirements. Thus, the district court concluded Feldkamp failed to demonstrate a genuine issue of material fact that any of KUHA's examples of performance issues, as they appeared to the ultimate decision maker, MacArthur, served as pretext for his discharge.

To refute the district court's conclusions, Feldkamp first argues he presented significant information in his deposition testimony related to the malfunctioning camera, explaining any tweaking done to the camera was on the software and not the hardware, posing no risk to the patient safety. He also asserts he regularly reported the camera issues to Captain and MacArthur through email as they requested. But he doesn't offer evidence to show that he adhered to hospital guidelines for malfunctioning equipment, or that MacArthur's perception of his failure to do so was incorrect. Thus, he does not establish a genuine issue of material fact on this issue.

Next, Feldkamp argues the Joint Commission findings that he did not maintain updated protocols were related to a department not under his supervision. Even if true, however, the *McDonnell Douglas* framework does not call for us to analyze his perception of the facts, but rather MacArthur's perception of the facts. Feldkamp fails to refute MacArthur's reliance on the Joint Commission's findings to conclude he did not keep the protocols up to date.

Third, Feldkamp contends he provided an opposing factual basis for the employee complaints made against him. He also asserts Captain encouraged the employees to make complaints. But he does not address MacArthur's perception of the complaints, nor does he point to record support that Captain encouraged the

employees. We conclude this argument is unavailing as to whether MacArthur's reasons for termination were pretextual.

Fourth, he contends KUHA did not consider a PIP despite having done so for other employees in the past. But Feldkamp does not refute that PIPs were only an available tool, not a stringent policy used formally or otherwise. Nor does he point to evidence that similarly situated employees were put on a PIP. He merely states that he knew they had been used. Thus, the decision not to implement a PIP does not support pretext.

And finally, Feldkamp contends "Becky Captain threatened [him] when she openly stated that she wished to replace all the 'older managers.'" *Aplt. Opening Br.* at 19. But he does not argue she said this in temporal proximity to his termination. Nor does he point to evidence showing Captain directly stated this. At most, in his declaration he asserts they were "rumors." *See Aplt. App. vol. II* at 500. Feldkamp does not point to evidence in the record to show Captain's alleged comment was more than an isolated comment or that she served as the decisionmaker in his termination. Alone, the comment does not give rise to pretext.

In sum, Feldkamp asserts that the record evidence supports a reasonable inference that KUHA's policies, practices and decision-making patterns contribute to a finding of pretext. But he fails to point to anything in the record to support this. Thus, we agree with the district court that he failed to establish a genuine issue of material fact that KUHA's reasons for dismissal were pretextual.

III. Conclusion

We affirm the district court's judgment.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge