

UNITED STATES COURT OF APPEALS

Filed 1/24/97

TENTH CIRCUIT

LAVERN ABNEY,

Plaintiff - Appellant,

v.

CITY OF TOPEKA,

Defendant - Appellee.

No. 96-3178
(D.C. No. 95-4013-SAC)
(District of Kansas)

ORDER AND JUDGMENT*

Before **BALDOCK, KELLY** and **LUCERO**, Circuit Judges.

Plaintiff Lavern Abney appeals the district court's entry of summary judgment in favor of defendant City of Topeka. See *Abney v. City of Topeka*, No. 95-4013-SAC, 1996 WL 254604 (D. Kan. Apr. 16, 1996). Mr. Abney alleges he was denied a promotion in violation of the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634.

Summary judgment is only appropriate if the "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). We review the grant of summary judgment de novo, applying the same standard used by the district court. Ball v. Renner, 54 F.3d 664, 665 (10th Cir. 1995). Upon careful consideration of the record, the briefs of the parties, the district court’s order, and applicable law, we affirm for substantially the reasons stated in the district court’s order.

AFFIRMED.

ENTERED FOR THE COURT

Carlos F. Lucero
Circuit Judge