

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

BETTY J. BIRCH,

Plaintiff-Appellant,

v.

F. WHITTEN PETERS, Acting
Secretary of the Department of the
Air Force,

Defendant-Appellee.

No. 01-1878

Appeal from the United States District Court
for the Eastern District of North Carolina, at Wilmington.
W. Earl Britt, Senior District Judge.
(CA-01-54-7-BR)

Submitted: November 30, 2001

Decided: December 26, 2001

Before WILKINS, MOTZ, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Ernest J. Wright, WRIGHT LAW FIRM, Jacksonville, North Carolina, for Appellant. John Stuart Bruce, United States Attorney, Anne M. Hayes, Assistant United States Attorney, R. A. Renfer, Jr., Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Betty J. Birch appeals the district court's order granting the Appellee's motion and dismissing her employment discrimination action as untimely. We have reviewed the joint appendix and briefs on appeal and find no reversible error. Accordingly, we affirm the judgment of the district court.

A claimant who fails to file a complaint within the ninety-day statutory time period mandated by Title VII, 42 U.S.C. § 2000e-5(f) (1994), and the ADEA, 29 U.S.C. § 626(e) (1994), generally forfeits her right to pursue her claims. *See Baldwin County Welcome Ctr. v. Brown*, 466 U.S. 147, 149-51 (1984). Relying on the North Carolina Rules of Procedure, N.C.R. Civ. P. 41(a), Birch contends on appeal that her voluntary dismissal of a previous suit tolled the statute of limitations and permitted her one year from the date of dismissal to file her current action.

Where, as here, the plaintiff voluntarily dismisses a lawsuit that was brought in federal court, asserted a purely federal claim, and was subject to a federal statute of limitations, state savings statutes do not apply. *See Beck v. Caterpillar Inc.*, 50 F.3d 405, 407 (7th Cir. 1995); *see also Brown v. Hartshorne Pub. Sch. Dist.*, 926 F.2d 959, 961 (10th Cir. 1991). Consequently, the statute of limitations was not tolled, and the district court properly dismissed Birch's action.

The district court's judgment is hereby affirmed. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED