

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-1940

WILMOT F. O'LOUGHLIN,

Plaintiff - Appellant,

versus

JO ANNE B. BARNHARDT, Commissioner of Social
Security,

Defendant - Appellee.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. Andre M. Davis, District Judge. (CA-01-
2996-AMD)

Submitted: March 17, 2004

Decided: April 19, 2004

Before WIDENER, LUTTIG, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

George M. Chuzi, KALIJARVI, CHUZI & NEWMAN, P.C., Washington, D.C.,
for Appellant. Thomas M. DiBiagio, United States Attorney, Jamie
M. Bennett, Assistant United States Attorney, Baltimore, Maryland,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Wilmot F. O'Loughlin appeals from the district court's order denying relief on his discrimination action and granting summary judgment to Social Security Administration Commissioner Jo Anne B. Barnhardt. O'Loughlin's discrimination action was brought under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, and the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-34 (2000). This Court reviews a grant of summary judgment de novo. Higgins v. E. I. DuPont de Nemours & Co., 863 F.2d 1162, 1167 (4th Cir. 1988).

O'Loughlin asserts the district court erred in dismissing his action based on its conclusion he was untimely in initiating administrative review. This is meritless. O'Loughlin fails to establish the Appellee waived this defense, and he fails to establish he timely pursued administrative review. See generally 29 C.F.R. § 1614.105(a)(1)-(2); 29 C.F.R. § 1614.107(b); 29 C.F.R. § 1614.604(c); Zipes v. Trans World Airlines, 455 U.S. 385, 393 (1982); Zografov v. Veteran's Admin. Med. Ctr., 779 F.2d 967, 968-70 (4th Cir. 1985). He also asserts the Appellee's stated nondiscriminatory reason for his nonselection for promotion was pretextual. We disagree with O'Loughlin's position that errors allegedly committed by the Appellee in the selection process evinced pretext. See generally Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 143 (2000).

Accordingly, we affirm the district court's order denying relief. 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