

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-2437

JOAN G. BARTLETT,

Plaintiff - Appellant,

versus

UNITED STATES OF AMERICA,

Defendant - Appellee.

BERLESTINE B. SPARKS,

Amicus Supporting Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (CA-04-222-1)

Submitted: October 26, 2005

Decided: November 15, 2005

Before MICHAEL, KING, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Daniel J. O'Connell, PETERSON NOLL & GOODMAN, P.L.C., Vienna, Virginia; Gary R. Sheehan, GARY R. SHEEHAN, LTD., Fairfax, Virginia, for Appellant. Paul J. McNulty, United States Attorney, Dennis C. Barghaan, Jr., Assistant United States Attorney, Alexandria, Virginia, for Appellee; Stephen A. Horvath, TRICHILO, BANCROFT, MCGAVIN, HORVATH & JUDKINS, P.C., Fairfax, Virginia, for Amicus Supporting Appellant.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Joan G. Bartlett appeals the district court's order dismissing her action filed under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680 (2000), for failure to state a claim. The district court properly concluded that Bartlett failed to show that the driver of the vehicle that struck her was acting within the scope of her employment at the time of the accident. See Smith v. Landmark Communications, Inc., 431 S.E.2d 306 (Va. 1993). Accordingly, we affirm for the reasons stated by the district court. See Bartlett v. United States, No. CA-04-222-1 (E.D. Va. filed Sept. 13, 2004 & entered Sept. 15, 2004). 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