

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-2504

JOHN DOE,

Plaintiff - Appellant,

v.

JOHN O. BRENNAN, Director of Central Intelligence Agency,

Defendant - Appellee,

and

DAVID PETRAEUS, Director of Central Intelligence Agency,

Defendant.

AMERICAN DIABETES ASSOCIATION,

Amicus Supporting Appellant.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Gerald Bruce Lee, District
Judge. (1:13-cv-00639-GBL-JFA)

Submitted: September 30, 2014

Decided: October 16, 2014

Before KEENAN and FLOYD, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

Katherine L. Butler, Houston, Texas; John W. Griffin, Jr., Victoria, Texas; Victor M. Glasberg, Alexandria, Virginia, for Appellant. Dana J. Boente, United States Attorney, Alexandria, Virginia; Stuart F. Delery, Assistant Attorney General, Marleigh D. Dover, Sushma Soni, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee. Gregory G. Paul, MORGAN & PAUL, PLLC, Sewickley, Pennsylvania, for Amicus Supporting Appellant.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Doe appeals the district court's order granting summary judgment to Defendant John Brennan, Director of the Central Intelligence Agency ("CIA"), in this civil action filed under the Rehabilitation Act of 1973, 29 U.S.C. §§ 701 to 7961 (2012), amended by Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §§ 401-488, 128 Stat. 1425, 1631-94 (2014). John Doe alleged in his complaint that the CIA discriminated against him based on a disability, i.e., Diabetes, Type 1, on two instances: first, when it revoked its conditional offer of employment, and second, when a CIA employee informed Doe in a telephone conversation that he would not be able to reapply. The district court granted summary judgment to Defendant finding that Doe failed to timely exhaust his remedies as to his first claim and, as to Doe's second claim, he failed to establish that he suffered an adverse employment action. On appeal, the American Diabetes Association has filed an amicus curiae brief in support of Doe, acknowledging that this case "primarily concerns a procedural issue of administrative exhaustion, but arguing that the CIA should not be permitted to avoid the consequences of its failure to individually assess people with diabetes because of procedural barriers."

We review de novo a district court's order granting summary judgment. D.L. ex rel. K.L. v. Balt. Bd. of Sch.

Comm'rs, 706 F.3d 256, 258 (4th Cir. 2013). Summary judgment is appropriate only when "there is no genuine issue as to any material fact and . . . the movant is entitled to judgment as a matter of law." Seremeth v. Bd. of Cnty. Comm'rs Frederick Cnty., 673 F.3d 333, 336 (4th Cir. 2012) (internal quotation marks omitted). In determining whether a genuine issue of material fact exists, this Court "view[s] the facts and the reasonable inferences therefrom in the light most favorable to the nonmoving party." Bonds v. Leavitt, 629 F.3d 369, 380 (4th Cir. 2011).

Upon our review, we conclude that there is no reversible error. Accordingly, we affirm for the reasons stated by the district court. Doe v. Brennan, No. 1:13-cv-00639-GBL-JFA (E.D. Va. filed Nov. 4, 2013; entered Nov. 5, 2013). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this Court and argument would not aid the decisional process.

AFFIRMED