

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-1322

NSONSA KISALA,

Plaintiff - Appellant,

versus

HIGH'S DAIRIES, INCORPORATED, d/b/a East Coast
Ice Cream,

Defendant - Appellee.

Appeal from the United States District Court for the District of
Maryland, at Greenbelt. J. Frederick Motz, Chief District Judge.
(CA-95-1320-JFM)

Submitted: August 30, 1996

Decided: October 30, 1996

Before WIDENER, NIEMEYER, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Nsonsa Kisala, Appellant Pro Se. Matthew William Oakey, Thomas N.
Biddison, Jr., GALLAGHER, EVELIUS & JONES, Baltimore, Maryland, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Nsonsa Kisala appeals from the district court order granting summary judgment to the Defendant in his employment discrimination action alleging constructive discharge based on race, national origin, and the exercise of constitutional rights, and unequal pay based on race and national origin. He also argues that the district court's grant of summary judgment prior to resolution of an outstanding motion to compel discovery constitutes a denial of due process. The Defendant argues that contrary to Kisala's assertion, he did not resign, but rather was terminated for poor performance and inability to function with his co-workers. The district court accepted the Defendant's version of termination and examined Kisala's claim as one of discriminatory discharge. We have considered both versions of Kisala's departure, reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm the district court's grant of summary judgment as to his claims of discharge, constructive or otherwise, based on race and national origin.

Turning to the remaining claims of constructive discharge for the exercise of constitutional rights and unequal pay based on race in violation of Title VII, we again find that Kisala has failed to establish a prima facie case. Finally, we find that any error which may have occurred in the grant of summary judgment prior to the resolution of Kisala's motion to compel discovery was harmless and does not warrant reversal.

Accordingly, we affirm the district court's grant of summary judgment in favor of the Defendant. 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