

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

DIANNE G. PARKS,

Plaintiff-Appellant,

v.

No. 99-1551

LENS CRAFTERS, INCORPORATED,

Defendant-Appellee.

Appeal from the United States District Court
for the District of South Carolina, at Aiken.
Charles E. Simons, Jr., Senior District Judge.
(CA-97-3668-1-6-BD)

Submitted: April 10, 2000

Decided: September 13, 2000

Before MURNAGHAN,* NIEMEYER, and MOTZ, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

COUNSEL

John D. Watkins, WATKINS & WATKINS, P.C., Augusta, Georgia,
for Appellant. Deborah S. Adams, FROST & JACOBS, L.L.P., Cin-
cinnati, Ohio, for Appellee.

*Judge Murnaghan was assigned to the panel in this case but died prior
to the time the decision was filed. The decision is filed by a quorum of
the panel pursuant to 28 U.S.C. S 46(d).

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Dianne G. Parks sued her employer alleging that she was denied promotions and pay raises because of her race in violation of 42 U.S.C. S 1981 (1994). The district court, accepting the magistrate judge's recommendation, granted the employer's motion for summary judgment on the sole ground that Parks could not proceed under S 1981 because she was an at-will employee.

After the magistrate judge's recommendation, upon which the district court relied, this court held that an at-will employee could prevail on a S 1981 claim. See *Spriggs v. Diamond Auto Glass*, 165 F.3d 1015, 1018-19 (4th Cir. 1999) (holding that at-will employment relationship is sufficiently contractual to serve as a predicate contract for purposes of a S 1981 action). Accordingly, we vacate and remand the district court's opinion because it is inconsistent with this court's opinion in *Spriggs*. We do not, however, express any opinion regarding alternative grounds for either granting or denying the employer's motion for summary judgment.

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.

VACATED AND REMANDED