

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 18-1488**

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DWAIN FOLTZ,

Plaintiff - Appellant,

v.

FAIRFAX COUNTY,

Defendant - Appellee,

and

OFFICE OF THE COUNTY ATTORNEY,

Defendant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (1:17-cv-00939-LMB-IDD)

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Submitted: October 23, 2018

Decided: November 8, 2018

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Before FLOYD and QUATTLEBAUM, Circuit Judges, and SHEDD, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Ellen Kyriacou Renaud, SWICK & SHAPIRO PC, Washington, D.C., for Appellant.  
Kimberly Baucom, Senior Assistant County Attorney, Karen L. Gibbons, Deputy County

Attorney, Elizabeth Teare, County Attorney, Robert M. Hardy, Assistant County Attorney, Adam Yost, Assistant County Attorney, OFFICE OF THE COUNTY ATTORNEY, Fairfax, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dwain Foltz appeals the district court's order granting Fairfax County summary judgment on his disability discrimination claim, brought pursuant to the Americans with Disabilities Act, 42 U.S.C.A. §§ 12101 to 12213 (West 2013 & Supp. 2018). We have reviewed the record and considered the parties' arguments and find no reversible error.

We first hold that Foltz did not establish a prima facie case of disability discrimination as required by the burden-shifting paradigm set forth in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). We also hold that, even if Foltz did establish his prima facie case, no reasonable jury would conclude that Foltz would not have been separated from the County "but for" his disability. See *Gentry v. E. W. Partners Club Mgmt. Co. Inc.*, 816 F.3d 228, 234 (4th Cir. 2016) (holding that a "but-for" causation standard applies in ADA context); see also *United States v. Riley*, 856 F.3d 326, 328 (4th Cir.) (recognizing that this court may affirm the district court's judgment "on any grounds apparent from the record" (internal quotation marks omitted)), *cert. denied*, 138 S. Ct. 273 (2017).

Based on the foregoing, we affirm the district court's order. 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*