

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Tiffany Potter v. Douglas A. Collins

Potter · No. CV-24-00347-PHX-SHD · Decided February 27, 2026

SUMMARY

The United States District Court for the District of Arizona granted the Secretary of the Department of Veterans Affairs’ motion for summary judgment in Tiffany Potter’s Title VII action. The court held that Potter could not selectively relitigate the constructive-discharge theory after receiving administrative relief and could proceed only through an enforcement action or a comprehensive de novo action. The court also denied any attempt to expand the case through summary-judgment briefing and directed the Clerk to enter judgment and close the case.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	Sharad H. Desai
JURISDICTION	United States District Court for the District of Arizona
DECIDED	February 27, 2026
DOCKET	CV-24-00347-PHX-SHD
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary judgment on the plaintiff’s Title VII claims arising from an asserted constructive-discharge theory. The court granted the motion and directed the Clerk to enter judgment and close the case.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court views the evidence in the light most favorable to the nonmoving party and draws reasonable inferences in that party’s favor. Whether a plaintiff may expand the claims through summary-judgment briefing or late amendment is reviewed under the applicable pleading, scheduling-order, and amendment standards.
PRECEDENTIAL VALUE	Unpublished district-court order; precedential status is not stated as published in the opinion.
PARTIES	Tiffany Potter v. Douglas A. Collins

TOPICS

summary judgment title vii federal employee discrimination civil procedure motion to amend

PRACTICE AREAS

employment law civil rights federal employment law administrative law civil procedure

QUESTIONS PRESENTED

1. Whether Potter could maintain a district-court action selectively challenging only the constructive-discharge portion of an EEOC administrative disposition while retaining the favorable portions of that disposition.
2. Whether Potter could expand the action through summary-judgment briefing to seek de novo review of the underlying discrimination, retaliation, hostile-work-environment, and remedy determinations.
3. Whether the Secretary was entitled to summary judgment because Potter's selective challenge was legally foreclosed and no genuine dispute of material fact remained.

HOLDINGS

1. A federal employee who brings a civil action after an EEOC decision must either accept the administrative disposition in its entirety through an enforcement action or bring a de novo action placing the entire administrative disposition at issue; the employee may not accept favorable administrative relief while selectively relitigating only an unfavorable portion.
2. A plaintiff may not raise a new claim or theory of liability for the first time in opposition to a motion for summary judgment.
3. After the scheduling-order deadline to amend has expired, a party must show good cause under Rule 16(b)(4) and excusable neglect under Rule 6(b)(1)(B), and a late amendment may be denied where the facts and theory were known earlier and amendment would prejudice the opposing party.

KEY QUOTATIONS

“A plaintiff may not selectively challenge only a portion of the administrative ruling while retaining favorable aspects.” (at 6)

“must either accept the administrative disposition in its entirety—including the OFO’s determination that the agency’s payment was sufficient—or bring a de novo action in the district court” (at 6)

“It is well-settled that a plaintiff cannot raise a new claim for relief in response to a motion for summary judgment.” (at 7)

“Because Potter’s complaint sought neither enforcement nor de novo review, her selective challenge to the administrative ruling is foreclosed as a matter of law.” (at 8)

FACTUAL BACKGROUND

Potter filed an EEO complaint alleging race and sex discrimination, retaliation, and hostile work environment claims against the Department of Veterans Affairs, later adding a constructive-discharge theory. An EEOC Administrative Judge found in Potter's favor on race and sex discrimination, retaliation, and hostile work environment, but determined that constructive discharge was not independently actionable because it was untimely; Potter received monetary relief, attorneys' fees, and costs, all of which the agency paid. After the EEOC Office of Federal Operations affirmed, Potter filed this action asserting claims expressly predicated on constructive discharge. During summary-judgment proceedings, she attempted to proceed instead with full de novo review of the administrative liability and remedy determinations.

PROCEDURAL HISTORY

Potter pursued administrative EEO proceedings against the Department of Veterans Affairs, obtained partial relief from an EEOC Administrative Judge, and received an agency final order adopting that decision. The EEOC Office of Federal Operations affirmed, and the agency paid the awarded monetary relief. Potter then filed this action seeking to relitigate only constructive discharge. After discovery closed and dispositive motions were filed, she stated in her summary-judgment briefing that she was willing to pursue de novo review of the full administrative disposition; the court held that she could not expand the action in that manner through briefing.

DISPOSITION

other

CASES CITED

- Fresno Motors, LLC v. Mercedes Benz USA, LLC, 771 F.3d 1119, 1125 (9th Cir. 2014)
- Rookaird v. BNSF Railway Co., 908 F.3d 451, 459 (9th Cir. 2018)
- Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)
- Nissan Fire & Marine Insurance Co. v. Fritz Cos., 210 F.3d 1099, 1102-03 (9th Cir. 2000)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249-50, 255 (1986)
- Kraus v. Presidio Trust Facilities Division/Residential Management Branch, 572 F.3d 1039, 1043 (9th Cir. 2009)
- Carver v. Holder, 606 F.3d 690, 696 (9th Cir. 2010)
- Thompson v. Donahoe, 2013 WL 144271, at *3-*4 (S.D. Cal. 2013)
- Ellis v. England, 432 F.3d 1321, 1323-25 (11th Cir. 2005)
- Melgozza v. Mayorkas, 2022 WL 3369631, at *3 (C.D. Cal. 2022)
- Ruiz v. Magellan Financial & Insurance Services, 2025 WL 1796275, at *9 (D. Ariz. 2025)
- Ortiz v. Lopez, 688 F. Supp. 2d 1072, 1082 (E.D. Cal. 2010)
- Pickern v. Pier 1 Imports (U.S.), Inc., 457 F.3d 963, 968 (9th Cir. 2006)
- Ward v. Clark County, 285 F. App'x 412, 412-13 (9th Cir. 2008)
- Acri v. International Association of Machinists & Aerospace Workers, 781 F.2d 1393, 1398 (9th Cir. 1986)
- Coleman v. Quaker Oats Co., 232 F.3d 1271, 1295 (9th Cir. 2000)
- Lockheed Martin Corp. v. Network Solutions, Inc., 194 F.3d 980, 986 (9th Cir. 1999)

- Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079 (9th Cir. 1990)
- AmerisourceBergen Corp. v. Dialysist West, Inc., 465 F.3d 946, 953 (9th Cir. 2006)
- LRCiv 7.2(f)

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