

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Mark A. Pendergraft v. David P. Steiner, Postmaster General, et al.

Pendergraft · No. CIV-24-1000-D · Decided December 22, 2025

SUMMARY

The United States District Court for the Western District of Oklahoma ruled on Defendant David P. Steiner’s motions to dismiss an amended employment-discrimination complaint brought by Mark A. Pendergraft. The court dismissed without prejudice the due process, conspiracy, intentional infliction of emotional distress, and hostile work environment claims, while allowing the race, age, and color disparate-treatment claims and the EEO-retaliation claim to proceed. The court also denied as moot related motions concerning the dismissed claims.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
WRITING FOR THE COURT	Timothy D. DeGiusti
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	December 22, 2025
DOCKET	CIV-24-1000-D
DISPOSITION	other
PROCEDURAL POSTURE	Defendant David P. Steiner moved under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) to dismiss Plaintiff's amended employment-discrimination complaint. The court granted the motion in part, dismissing Counts 4, 6, 7, and 8 without prejudice, while allowing Counts 1-3 and 5 to proceed.
STANDARD OF REVIEW	On a facial Rule 12(b)(1) challenge, the court accepts the complaint's jurisdictional allegations as true. Under Rule 12(b)(6), the complaint must contain sufficient factual matter to state a claim that is plausible on its face; well-pleaded factual allegations are accepted as true and viewed in the plaintiff's favor, but conclusory allegations are not credited. Pro se pleadings are liberally construed, although the court may not act as the litigant's advocate.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

federal employee discrimination

title vii

age discrimination

motions to dismiss

hostile work environment

PRACTICE AREAS

federal employment discrimination

employment law

civil rights

civil procedure

QUESTIONS PRESENTED

1. Whether the amended complaint stated a jurisdictional basis for the conspiracy claim.
2. Whether the allegations plausibly stated Title VII and ADEA disparate-treatment claims based on race, color, and age.
3. Whether a probationary USPS employee plausibly alleged a protected property or liberty interest supporting a Fifth Amendment due-process claim.
4. Whether the allegations plausibly stated a Title VII EEO-retaliation claim.
5. Whether the intentional-infliction-of-emotional-distress claim was preempted by Title VII.
6. Whether the allegations stated a hostile-work-environment claim.
7. Whether Plaintiff's informal request for leave to amend required the court to permit another amendment.

HOLDINGS

1. The conspiracy claim was dismissed under Rule 12(b)(1) because the amended complaint failed to state a jurisdictional basis for the claim.
2. The amended complaint plausibly stated disparate-treatment claims based on race, color, and age, so Counts 1-3 survived dismissal.
3. The due-process claim was dismissed because Plaintiff, a probationary employee, did not sufficiently allege a constitutionally protected property or liberty interest in continued employment.
4. The amended complaint plausibly stated an EEO-retaliation claim, so Count 5 survived dismissal.
5. The IIED claim was dismissed under Rule 12(b)(6) as preempted by Title VII because it was based on the same operative facts as Plaintiff's federal employment-discrimination claims.
6. The hostile-work-environment claim was dismissed because the alleged confrontation, disparaging comments, and conclusory assertions of stalking, harassment, and threats did not plausibly allege conduct sufficiently severe or pervasive to alter the conditions of employment.
7. The court denied Plaintiff's informal request for leave to amend because a bare request did not constitute a motion and did not provide adequate notice of the proposed amendment's basis.

FACTUAL BACKGROUND

Plaintiff, a 51-year-old Caucasian male, worked as a USPS truck driver beginning in February 2023 and applied unsuccessfully for four internal or external management and driver-instructor positions. He alleged that younger African American applicants were selected despite being less qualified and that USPS management told him he

was not hired because of his age, race, and color. After he contacted or initiated the EEO process in April 2023, he was involved in a workplace altercation, suspended pending investigation, and terminated in May 2023. He alleged that management retaliated against him, harassed or stalked him, and denied him procedural rights during termination.

PROCEDURAL HISTORY

Pendergraft filed an employment-discrimination action against the Postmaster General and two individual defendants after his USPS employment was terminated and an APWU arbitrator ruled in his favor on his wrongful-termination grievance. He filed an amended complaint asserting ADEA, Title VII, Fifth Amendment due-process, conspiracy, intentional-infliction-of-emotional-distress, retaliation, and hostile-work-environment claims. The court resolved the Postmaster General's motion to dismiss and deemed separate motions concerning Counts 6 and 7 moot.

DISPOSITION

other

CASES CITED

- Gad v. Kan. State Univ., 787 F.3d 1032, 1035 (10th Cir. 2015)
- Pueblo of Jemez v. United States, 790 F.3d 1143, 1148 n.4 (10th Cir. 2015)
- Davis v. TXO Prod. Corp., 929 F.2d 1515, 1517 (10th Cir. 1991)
- Wyatt v. Cole, 504 U.S. 158, 161 (1992)
- Ford v. West, 222 F.3d 767, 773 (10th Cir. 2000)
- Mobley v. Donahoe, 498 F. App'x 793, 796 (10th Cir. 2012) (unpublished)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Smith v. United States, 561 F.3d 1090, 1098 (10th Cir. 2009)
- Robbins v. Oklahoma, 519 F.3d 1242, 1247 (10th Cir. 2008)
- Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)
- Khalik v. United Air Lines, 671 F.3d 1188, 1192 (10th Cir. 2012)
- Frappied v. Affinity Gaming Black Hawk, LLC, 966 F.3d 1038, 1054 (10th Cir. 2020)
- Throupe v. Univ. of Denver, 988 F.3d 1243, 1252 (10th Cir. 2021)
- EEOC v. PVNF, L.L.C., 487 F.3d 790, 800 (10th Cir. 2007)
- Ames v. Ohio Dep't of Youth Servs., 605 U.S. 303, 310 (2025)
- Sipes v. United States, 744 F.2d 1418, 1421 (10th Cir. 1984)
- Walker v. United States, 744 F.2d 67, 68 (10th Cir. 1984)
- Meiners v. Univ. of Kan., 359 F.3d 1222, 1229 (10th Cir. 2004)
- Lincoln v. Maketa, 880 F.3d 533, 540 (10th Cir. 2018)
- Crews v. Austin, No. 20-1055-HE, 2021 WL 12319832, at *1 (W.D. Okla. July 7, 2021)

- Juarez v. Utah, 263 F. App'x 726, 739 (10th Cir. 2008) (unpublished)
- Montes v. Vail Clinic, Inc., 497 F.3d 1160, 1169-70 (10th Cir. 2007)
- Herrera v. Lufkin Indus., Inc., 474 F.3d 675, 680 (10th Cir. 2007)
- Chavez v. New Mexico, 397 F.3d 826, 832 (10th Cir. 2005)
- Brooks v. Mentor Worldwide LLC, 985 F.3d 1272, 1283 (10th Cir. 2021)
- Hall v. Witteman, 584 F.3d 859, 868 (10th Cir. 2009)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-western-district-of-okl/2025/mark-a-pendergraft-v-david-p-steiner-postmaster-general-et-7yv6bopj>