

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Anthony Cox v. Victory Packaging

Cox · No. 25-cv-01519-NRN · Decided May 28, 2026

SUMMARY

The United States District Court for the District of Colorado grants Victory Packaging LP’s partial motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). The court holds that alleged discrete discriminatory or retaliatory acts occurring before May 4, 2023 were not timely exhausted, rejects application of the continuing-violation doctrine, and dismisses the disability-discrimination and post-charge claims for failure to state a claim or exhaust administrative remedies. The case proceeds only on Title VII claims for unlawful employment discrimination and retaliation occurring between May 4, 2023, and February 28, 2024.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	N. Reid Neureiter
JURISDICTION	United States District Court for the District of Colorado
DECIDED	May 28, 2026
DOCKET	25-cv-01519-NRN
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to partially dismiss the plaintiff's employment-discrimination claims. The parties consented to magistrate judge jurisdiction, and the court granted the motion in part, limiting the claims that could proceed.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, construes them in the plaintiff's favor, disregards legal conclusions and conclusory assertions, and determines whether the remaining factual allegations plausibly state a claim for relief. A failure-to-exhaust defense may be considered on a motion to dismiss when the basis for the defense appears on the face of the complaint.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Anthony Cox v. Victory Packaging

TOPICS

title vii

employment discrimination

retaliation

motions to dismiss

statute of limitations

PRACTICE AREAS

employment law

civil rights

civil procedure

QUESTIONS PRESENTED

1. Whether Title VII claims based on discrete discriminatory or retaliatory acts occurring more than 300 days before the February 28, 2024 EEOC charge were time barred.
2. Whether the continuing-violation doctrine allowed the plaintiff to rely on pre-May 4, 2023 events.
3. Whether the plaintiff stated a plausible disability-discrimination claim and exhausted administrative remedies for that claim.
4. Whether claims based on events occurring after the February 28, 2024 EEOC charge were administratively exhausted.

HOLDINGS

1. A plaintiff may not rely on discrete discriminatory or retaliatory incidents occurring more than 300 days before filing an EEOC charge; Cox therefore could not rely on incidents occurring before May 4, 2023.
2. The continuing-violation doctrine did not preserve Cox's pre-May 4, 2023 allegations because the complaint did not plausibly assert a hostile work environment claim and the described conduct was not sufficiently severe or pervasive.
3. The disability-discrimination claim was dismissed because the complaint did not plausibly allege a disability or discrimination because of disability, and the plaintiff failed to exhaust the claim through the EEOC charge.
4. The plaintiff could not pursue Title VII claims based on incidents occurring after the February 28, 2024 EEOC charge because he did not file a new charge or amend the existing charge.

FACTUAL BACKGROUND

Anthony Cox worked for Victory Packaging as a truck driver from 2018 until his termination on July 10, 2023. He alleged that he was treated differently and paid less than non-Black coworkers of similar tenure, and he asserted claims characterized as wrongful termination and retaliation. He filed an EEOC charge on February 28, 2024, and the EEOC issued a notice of right to sue on February 12, 2025. His complaint also referenced disability discrimination and events occurring after the filing of the charge.

PROCEDURAL HISTORY

Cox filed a second amended employment-discrimination complaint alleging racial discrimination, wrongful termination, retaliation, and disability discrimination. Victory Packaging moved to dismiss claims based on events outside Title VII's 300-day administrative-filing period and claims based on post-charge events. After briefing and oral argument, the court granted the motion and held that the case would proceed only on Title VII discrimination and retaliation claims concerning events between May 4, 2023, and February 28, 2024.

DISPOSITION

other

CASES CITED

- Villarreal v. Walmart, Inc., No. 19-cv-01722-PAB-STV, 2021 WL 1022701, at *5 (D. Colo. Mar. 17, 2021)
- Dubbs v. Head Start, Inc., 336 F.3d 1194, 1201 (10th Cir. 2003)
- Hall v. Bellmon, 935 F.2d 1106, 1109-10 (10th Cir. 1991)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-81 (2009)
- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)
- Craig v. McCollum, 590 F. App'x 723, 726 (10th Cir. 2014)
- Montes v. Vail Clinic, Inc., 497 F.3d 1160, 1163 (10th Cir. 2007)
- National Railroad Passenger Corp. v. Morgan, 536 U.S. 101, 110, 114-17 (2002)
- Robinson v. Board of Regents of University of Colorado, 390 F. Supp. 2d 1011, 1020 (D. Colo. 2005)
- Salemi v. Colorado Public Employees' Retirement Association, 747 F. App'x 675, 688 (10th Cir. 2018)
- Martinez v. Potter, 347 F.3d 1208, 1210 (10th Cir. 2003)
- Daniels v. United Parcel Service, Inc., 701 F.3d 620, 628, 631-32 (10th Cir. 2012)
- Davidson v. American Online, Inc., 337 F.3d 1179, 1183, 1185, 1187 (10th Cir. 2003)
- Throupe v. University of Denver, 988 F.3d 1243, 1251 (10th Cir. 2021)
- Dick v. Phone Directories Co., 397 F.3d 1256, 1262-63 (10th Cir. 2005)
- Morris v. City of Colorado Springs, 666 F.3d 654, 663-64 (10th Cir. 2012)
- DeNovellis v. Shalala, 124 F.3d 298, 310 (1st Cir. 1997)
- Jones v. United Parcel Service, Inc., 502 F.3d 1176, 1186 (10th Cir. 2007)
- Douglas v. Norton, 167 F. App'x 698, 711 (10th Cir. 2006)
- Woodman v. Runyon, 132 F.3d 1330, 1342 (10th Cir. 1997)
- Cirocco v. MacMahon, 768 F. App'x 854, 858 (10th Cir. 2019)