

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

Wilkinson v. Collins

Wilkinson · No. 3:24-cv-01749-AP · Decided February 12, 2026

SUMMARY

The United States District Court for the District of Oregon granted the Department of Veterans Affairs’ partial motion to dismiss Paul Wilkinson’s ADEA age-discrimination claim. The court held that the complaint did not allege exhaustion of administrative remedies or sufficient facts supporting an inference of age discrimination, but granted leave to amend within thirty days.

CASE DETAILS

COURT	United States District Court for the District of Oregon
WRITING FOR THE COURT	Amy E. Potter
JURISDICTION	United States District Court for the District of Oregon
DECIDED	February 12, 2026
DOCKET	3:24-cv-01749-AP
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss Plaintiff's ADEA claim for failure to allege exhaustion of administrative remedies and failure to plead sufficient facts supporting age discrimination.
STANDARD OF REVIEW	On a motion to dismiss under Rule 12(b)(6), the court accepts well-pleaded material factual allegations as true and construes them in the light most favorable to the nonmoving party, but need not accept legal conclusions couched as factual allegations. The complaint must contain sufficient factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- age discrimination
- federal employee discrimination
- motions to dismiss
- employment discrimination
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiff adequately alleged exhaustion of administrative remedies for his ADEA age-discrimination claim.
2. Whether Plaintiff's complaint pleaded sufficient factual matter to state a plausible age-discrimination claim under the ADEA.

HOLDINGS

1. A plaintiff bringing an ADEA claim against a federal employer must allege facts showing exhaustion of administrative remedies, and Wilkinson failed to do so because the complaint and attached EEOC materials did not establish that he pursued an age-discrimination claim.
2. The complaint failed to state a plausible ADEA age-discrimination claim because it did not allege facts showing that Plaintiff was at least forty, was qualified, suffered an adverse employment action because of age, and was treated less favorably than substantially younger similarly situated employees or that other circumstances supported an inference of age discrimination.

KEY QUOTATIONS

“To establish a prima facie case for age discrimination, a plaintiff must show that “(1) he is [at least age 40]; (2) he was qualified for his position; (3) he experienced an adverse employment action; and (4) similarly situated individuals [who were substantially younger] were treated more favorably, or other circumstances surrounding the adverse employment action give rise to an inference of discrimination.”” (Discussion)

“Conclusory legal statements without the underlying factual allegations are not sufficient.” (Discussion)

FACTUAL BACKGROUND

Paul Wilkinson formerly worked as a Night Supervisor at the Portland, Oregon, VA Medical Center. He alleged that between August 2017 and October 2019 he was denied sick leave, demoted, transferred from the night shift to the day shift, subjected to remedial discipline and reprimands, and suspended. He filed EEOC complaints alleging sex discrimination and retaliation, but the complaint and attached EEOC decisions did not state that he had exhausted an age-discrimination claim or contain facts showing that the EEOC charges included age discrimination.

PROCEDURAL HISTORY

Plaintiff filed an action against the Secretary of the U.S. Department of Veterans Affairs alleging sex and age discrimination and retaliation under Title VII and the ADEA. Defendant moved to dismiss the ADEA claim. The court granted the partial motion to dismiss and allowed Plaintiff thirty days to file an amended complaint.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Plaintiff may file an amended complaint within thirty days and should allege facts supporting both exhaustion of the ADEA claim and the elements of age discrimination.

CASES CITED

- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 663 (2009)
- Lathus v. City of Huntington Beach, 56 F.4th 1238, 1240 (9th Cir. 2023)
- Doe v. United States, 58 F.3d 494, 497 (9th Cir. 1995)
- Whitman v. Mineta, 541 F.3d 929, 932 (9th Cir. 2008)
- Forester v. Chertoff, 500 F.3d 920, 924 (9th Cir. 2007)

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