

UNITED STATES COURT OF APPEALS

Filed 4/2/96

TENTH CIRCUIT

ARTHUR R. MORALES, on behalf of
himself and others similarly situated,

Plaintiff - Appellant,

v.

SANDIA NATIONAL
LABORATORIES,

Defendant - Appellee.

No. 95-2204

(D. New Mexico)

(D.C. No. CIV-91-614-JG)

ORDER AND JUDGMENT*

Before **ANDERSON, BARRETT, and LOGAN**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Arthur R. Morales brought this action against Sandia National Laboratories, (“Sandia”) alleging unlawful discrimination on the basis of national origin, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, and on the basis of age, in violation of the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. §§ 621-634. Following a bench trial before a magistrate judge, the court returned judgment in favor of Sandia on all claims. In this pro se appeal, Morales contends that the court erred in numerous findings of fact and misapplied the law.¹ We affirm.

We review the trial court’s findings of fact for clear error, and we review its conclusions of law de novo. Metz v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 39 F.3d 1482, 1491 (10th Cir. 1994). Because Morales is representing himself, we construe his brief liberally. Haines v. Kerner, 404 U.S. 519, 520-21 (1972). However, a pro se litigant must comply with the procedural and substantive rules. Casper v. Commissioner, 805 F.2d 902, 906 n.3 (10th Cir. 1986).

As Sandia notes in its brief, Morales has failed to provide a transcript, although he claims various errors in the court’s findings of fact. Nonetheless, we have reviewed each of the claims which Morales asserts, referring to the cited trial exhibits he attached to his brief. Even if the court may have misstated minor points, in no case does Morales present any discrepancy sufficient to demonstrate clear error which would have affected the

¹During the course of this appeal, the parties have filed various motions for dismissal, summary grant, and sanctions. We find no merit to any of these motions, and they are denied.

outcome.² Nulf v. International Paper Co., 656 F.2d 553, 561 (10th Cir. 1981). Inasmuch as Morales has not shown that the court's findings of fact are clearly erroneous, we conclude that the court did not err in the ultimate legal conclusion that Morales failed to demonstrate unlawful discrimination.

AFFIRMED. The mandate shall issue forthwith.

ENTERED FOR THE COURT

Stephen H. Anderson
Circuit Judge

²Although Morales argues additional support for his claims, based on "new evidence," we do not consider material which was not presented to the trial court. See Allen v. Minnstar, Inc., 8 F.3d 1470, 1475 (10th Cir. 1993).