

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

MAR 26 2001

PATRICK FISHER
Clerk

MARY W. MORELAND,
Plaintiff - Appellant,
v.
DEPARTMENT OF PUBLIC
HEALTH AND ENVIRONMENT,
formerly known as Department of
Health, Division of Administrative
Services, State of Colorado,
Defendant - Appellee.

No. 99-1324
(D.C. No. 97-B-603)
(D. Colorado)

ORDER AND JUDGMENT*

Before **SEYMOUR**, **McKAY**, and **BRORBY**, Circuit Judges.

Plaintiff brought an administrative action in Colorado alleging gender and age discrimination. After sundry proceedings, her claims were denied. She then appealed to the Colorado state courts. The administrative decision was affirmed. She brought an action in federal district court asserting the same claims under Title VII and the Age Discrimination in Employment Act. That action was

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

dismissed on grounds of collateral estoppel and res judicata.

We conclude that this case is legally indistinguishable from Kremer v. Chem. Constr. Corp., 456 U.S. 641 (1982), and Bolling v. City & County of Denver, 790 F.2d 67 (10th Cir. 1986).

Plaintiff makes much of the failure of the State of Colorado to provide her with free transcripts of the administrative proceedings because of her indigency and of the absence of a jury trial in the state administrative proceedings. Neither is relevant to whether she had a full and fair opportunity to litigate her claims. Of course, Plaintiff could have filed this federal action in the first place, rather than appeal the administrative decision to the Colorado courts. Having elected that appeal, however, she is bound by its results as we are also.

For the reasons set out here, and as more fully recited in the report and recommendation of the magistrate judge and adopted by the trial court, the judgment is **AFFIRMED**.

Entered for the Court

Monroe G. McKay
Circuit Judge