

September 20, 2018

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

KENNETH RAY KENT,

Plaintiff - Appellant,

v.

COMMISSIONER, SSA,

Defendant - Appellee.

No. 18-1095

(D.C. No. 1:16-CV-02178-NYW)

(D. Colo.)

ORDER AND JUDGMENT*

Before **BACHARACH, MURPHY, and MORITZ**, Circuit Judges.

After examining the parties' briefs and the appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Kenneth Ray Kent filed a civil rights complaint under Title VII, asserting unlawful discrimination (on the basis of age, race, and sex) and retaliation.

Nancy Berryhill, the Acting Commissioner of Social Security ("SSA") moved to

*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

dismiss Kent's complaint under Fed. R. Civ. P. 12(b)(6), based on Kent's failure to meet the pleading requirements of Fed. R. Civ. P. 8 and his failure to allege facts approximating the prima facie elements of his discrimination and retaliation claims. In a thorough and well-stated order, the district court agreed with SSA's arguments and dismissed Kent's complaint.

The district court's decision is soundly based on legal precedent and principles and Kent's brief on appeal offers no authority or argument that calls the decision into question. Indeed, Kent's opening brief does not even respond to the district court's order of dismissal. *See Hernandez v. Starbuck*, 69 F.3d 1089, 1093 (10th Cir. 1995) ("Because the appellant comes to the court of appeals as the challenger, he bears the burden of demonstrating the alleged error and the precise relief sought."). Nor does Kent tie his appellate arguments, to the extent any exist in his brief, to the facts and to relevant authorities. *See Fed. R. App. P. 29(a)(9)* (requiring that the appellant's brief contain an argument supported by citations to pertinent legal authorities and the parts of the record upon which the appellant relies).

Therefore, for those reasons set out above, this court exercises jurisdiction pursuant to 28 U.S.C. § 1291 and **AFFIRMS** the district court's judgment. Furthermore, because Kent's brief does not demonstrate "the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues

raised on appeal,” *DeBardleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991), we **DENY** Kent’s request to proceed on appeal in forma pauperis.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge