

PUBLISH

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

JUL 12 1994

ROBERT L. HOECKER
Clerk

CHET A. HURD,)
)
 Plaintiff-Appellee,)
)
 v.)
)
 PITTSBURG STATE UNIVERSITY,)
)
 Defendant-Appellant,)
)
 and)
)
 WILLIAM MARK SIMMONS,)
)
 Defendant,)
)
 U.S. EQUAL EMPLOYMENT OPPORTUNITY)
 COMMISSION,)
)
 Amicus Curiae.)

No. 93-3082

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
(D.C. No. 92-CV-2253)

Carl A. Gallagher, Assistant Attorney General (Robert T. Stephan, Attorney General, with him on the briefs), Topeka, Kansas, for Defendant-Appellant.

Mark A. Buchanan, The Popham Law Firm, P.C., Kansas City, Missouri, for Plaintiff-Appellee.

Paul D. Ramshaw, Attorney (Donald R. Livingston, General Counsel; Gwendolyn Young Reams, Associate General Counsel; and Vincent J. Blackwood, Assistant General Counsel, with him on the brief), U.S. Equal Employment Opportunity Commission, Washington, D.C., Amicus Curiae.

Before LOGAN and MCKAY, Circuit Judges, and SAM,* District Judge.

MCKAY, Circuit Judge.

The issue in this case is whether lawsuits under the Age Discrimination Employment Act ("ADEA") brought by private litigants against the state in federal court are barred by Eleventh Amendment immunity. In a thorough and well-reasoned opinion published at 821 F. Supp. 1410 (D. Kan. 1993), the district court held that Congress intended to abrogate states' Eleventh Amendment immunity when it passed the ADEA. The only additions we can make to the district court's opinion are the citations for two more cases that support its holding. Specifically, in addition to the cases cited by the district court, both the Seventh Circuit, see Heiar v. Crawford County, Wis., 746 F.2d 1190 (1984), cert. denied, 472 U.S. 1027 (1985), and the First Circuit, see Ramirez v. Puerto Rico Fire Serv., 715 F.2d 694 (1st Cir. 1983), have held that Congress intended to abrogate states' Eleventh Amendment immunity when it passed the ADEA. Accordingly, we affirm for substantially the same reasons given by the district court.

AFFIRMED.

* Honorable David Sam, United States District Judge for the District of Utah, sitting by designation.