

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-3432

Kelvin Kenyon,

Appellant,

v.

Bituminous Roadways, Inc.,

Appellee.

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* Appeal from the United States
* District Court for the
* District of Minnesota.

* **[UNPUBLISHED]**

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Submitted: November 7, 2000
Filed: November 20, 2000

Before BEAM, FAGG, and LOKEN, Circuit Judges.

PER CURIAM.

Kelvin Kenyon appeals the district court's¹ grant of summary judgment in his employment discrimination case against his former employer, Bituminous Roadways (Bituminous). Kenyon alleged that Bituminous discriminated against him based on his age and race by terminating him in January 1997, and that Bituminous defamed him by falsely accusing him of padding his time card. Upon careful de novo review of the

¹The HONORABLE DONOVAN W. FRANK, United States District Judge for the District of Minnesota, adopting the report and recommendations of the HONORABLE RAYMOND L. ERICKSON, United States Magistrate Judge for the District of Minnesota.

record, see Hill v. St. Louis Univ., 123 F.3d 1114, 1118 (8th Cir. 1997), and consideration of the parties' arguments on appeal, we agree with the district court that Kenyon failed to create any trialworthy issue on his discrimination claims for the reasons explained in the magistrate judge's thorough report. See Fisher v. Pharmacia & Upjohn, 225 F.3d 915, 921 (8th Cir. 2000). We also agree with the court that the defamation claim fails because the alleged defamatory statements were privileged.

Accordingly, we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.