

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

No. 00-1936

Mark St. Hilaire,	*
	*
Plaintiff - Appellant,	*
	* Appeal from the United States
v.	* District Court for the
	* District of Minnesota.
Minco Products, Inc.,	*
	* [UNPUBLISHED]
Defendant - Appellee.	*

Submitted: December 14, 2000

Filed: February 5, 2001

Before LOKEN and MAGILL, Circuit Judges, and BATTEY,* District Judge.

PER CURIAM.

After Minco Products, Inc., terminated Mark St. Hilaire for allegedly harassing two female co-workers, threatening a supervisor, and poor work habits, St. Hilaire exhausted his administrative remedies and commenced this action, alleging disability

*The HONORABLE RICHARD H. BATTEY, United States District Judge for the District of South Dakota, sitting by designation.

and retaliation discrimination. The district court¹ granted summary judgment in favor of Minco dismissing St. Hilaire's discrimination claims. The court concluded he neither alleged nor demonstrated the "protected activity" needed to support a retaliation claim, and he failed to present sufficient evidence that Minco's legitimate, non-discriminatory reasons for the termination were a pretext for disability discrimination.

St. Hilaire appeals, arguing he established a *prima facie* case of disability discrimination (which the district court assumed), and Minco's stated reasons for the termination are "transparently pretextual." After *de novo* review of the summary judgment record, we affirm the dismissal of his discrimination claims for the reasons stated by the district court. See 8th Cir. Rule 47B. St. Hilaire further argues that the district court abused its discretion by granting Minco's discovery motions to compel production of St. Hilaire's medical and tax records. We decline to consider these rulings, as they did not affect the dismissal of St. Hilaire's claims on the merits. See 6 MOORE'S FEDERAL PRACTICE § 26.07[5] (Matthew Bender 3d ed.) (interlocutory discovery orders reviewable on appeal "insofar as they are not moot and have affected the correctness of the final judgment").

The judgment of the district court is affirmed.

A true copy.

Attest:

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

¹The HONORABLE ANN D. MONTGOMERY, United States District Judge for the District of Minnesota.