

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-1565

Shirl D. Driver,

Appellant,

v.

Michael Groose; Allen Luebbers;
Nancy Belt; Cyndi Prudden; Robert
Capowski,

Appellees.

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Appeal from the United States
District Court for the
Eastern District of Missouri.

[PUBLISHED]

Submitted: November 7, 2001
Filed: December 13, 2001

Before WOLLMAN, Chief Judge, BOWMAN, and LOKEN, Circuit Judges.

PER CURIAM.

Shirl D. Driver, a Missouri inmate, alleged that prison officials violated her first- amendment, due-process, and equal-protection rights when they censored a music- cassette tape she had ordered through the mail, purportedly because the tape was determined to be a security risk under the prison's mail policy. The District

Court¹ granted summary judgment for defendants and denied Driver's post-judgment motion. Driver appeals.

Having carefully reviewed the record and the parties' briefs, we agree that summary judgment was proper, essentially for the reasons stated by the District Court. See Liebe v. Norton, 157 F.3d 574, 578 (8th Cir. 1998) (de novo review). Concerning Driver's equal-protection claim, though her pleadings show that she is a member of a protected class, to avoid summary judgment it was incumbent upon her to come forward with evidence that would create a triable issue of fact as to whether she had been treated differently from similarly situated white inmates, and this she failed to do. In particular, her evidence does not show that any white inmates were allowed to receive through the mail, uncensored, the same explicit-lyric tape that she had ordered. There being no error in the District Court's grant of summary judgment, we conclude that the court did not abuse its discretion in denying Driver's post-judgment motion. See Sanders v. Clemco Indus., 862 F.2d 161, 169 (8th Cir. 1988) (standard of review). Accordingly, we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

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

¹The Honorable Carol E. Jackson, United States District Judge for the Eastern District of Missouri.