

United States Court of Appeals
For the Eighth Circuit

No. 12-2184

Richard Johnson

Plaintiff - Appellant

v.

Tyson Foods

Defendant - Appellee

Appeal from United States District Court
for the Western District of Arkansas - Fayetteville

Submitted: February 7, 2013

Filed: March 1, 2013

[Unpublished]

Before BYE, ARNOLD, and SHEPHERD, Circuit Judges.

PER CURIAM.

Richard Johnson appeals the district court's¹ Federal Rule of Civil Procedure 12(b)(6) dismissal of his complaint asserting discrimination under the Americans with

¹The Honorable Jimm Larry Hendren, United States District Judge for the Western District of Arkansas.

Disabilities Act (ADA). Upon de novo review, see Butler v. Bank of Am., 690 F.3d 959, 961 (8th Cir. 2012) (standard of review), we agree with the district court that Johnson--who had been afforded several opportunities to present his claim--failed to allege sufficient facts to state an ADA claim. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (complaint must state “more than an unadorned, the-defendant-unlawfully-harmed-me accusation”; conclusory statements of law are insufficient to support claim); Berg v. Norand Corp., 169 F.3d 1140, 144 (8th Cir. 1999) (setting forth elements of ADA claim).² The judgment of the district court is affirmed. See 8th Cir. R. 47B.

Judge Arnold dissents.

²We decline to consider allegations that Johnson first raised on appeal. See Stone v. Harry, 364 F.3d 912, 914 (8th Cir. 2004) (declining to consider allegations first raised on appeal).