
No. 95-3324

Pamela S. Freitag,

Appellant,

v.

ELI, also known as Employer
Advantage; Wilson, Turner, Gavin,*
Inc.,

Appellees.

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* Appeal from the United States
* District Court for the
* Western District of Missouri.
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[UNPUBLISHED]

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Submitted: July 1, 1996

Filed: August 9, 1996

Before BEAM, LOKEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Pamela Freitag brought an employment discrimination action against ELI, also known as Employer Advantage, and Wilson, Turner, Gavin, Inc. ("WTG"). Defendants filed a motion to dismiss for lack of subject matter jurisdiction, supported by affidavits, arguing that neither ELI nor WTG was an "employer" within the meaning of Title VII, 42 U.S.C. § 2000e(b). Freitag responded and submitted exhibits for the district court's¹ evaluation. After considering the parties' submissions, the district court granted defendants' motion. Freitag appeals.

¹The Honorable Joseph E. Stevens, Jr., United States District Judge for the Western District of Missouri.

After carefully reviewing the record and the parties' briefs, we conclude the district court's judgment was correct. Contrary to Freitag's argument on appeal, the district court properly considered materials outside the pleadings without treating defendants' motion as one for summary judgment, and could undertake its jurisdictional inquiry without conducting a formal evidentiary hearing or forewarning the parties. See Osborn v. United States, 918 F.2d 724, 729-30 (8th Cir. 1990).

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

A true copy.

Attest:

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