

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-4333

Craig Campbell,

Plaintiff - Appellant,

v.

Spero Electric Corporation,

Defendant - Appellee.

*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the
Western District of Arkansas.

[UNPUBLISHED]

Submitted: May 14, 1998

Filed: June 11, 1998

Before BEAM, LOKEN, and MURPHY, Circuit Judges.

PER CURIAM.

This is a diversity action by terminated sales representative Craig Campbell to recover unpaid commissions from Spero Electric Corporation. The parties' prior ten-year relationship is reflected in a September 6, 1985, letter from Spero's president addressed to Campbell in Maumelle, Arkansas, and stating, "This letter will officially appoint you as our representative *for the state of Oklahoma.*" (Emphasis added.) Spero moved to dismiss for lack of personal jurisdiction, arguing that it did not have the constitutionally requisite minimum contacts with the State of Arkansas. Campbell responded, arguing that the contract with an Arkansas resident was enough, and further

asserting without supporting evidence that the contract as performed had included sales in Arkansas and other Arkansas contacts. The district court¹ granted the motion to dismiss because Campbell “offers no evidence to support his contentions that [Spero] has transacted business in Arkansas.” Campbell appeals, without first asking the district court to reconsider its decision or otherwise showing that he has, or could obtain through discovery, concrete evidence to support his contention that the contract was partially performed in Arkansas. After careful review of the record, we agree with the district court that this failure of proof is fatal to Campbell’s assertion of personal jurisdiction over Spero in Arkansas. Accordingly, we affirm, except that we modify the dismissal to be without prejudice. See 8th Cir. Rule 47B.

A true copy.

Attest:

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

¹The HONORABLE JIMM LARRY HENDREN, United States District Judge for the Western District of Arkansas.