

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

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No. 98-2149NE

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Valomark Love,

Appellant,

v.

Marvin T. Runyon, Jr., Postmaster  
General, United States Post Office,

Appellee.

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\* On Appeal from the United  
\* States District Court for the  
\* District of Nebraska.  
\* Nebraska.  
\*  
\* (PUBLISHED)  
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Submitted: December 28, 1998

Filed: January 11, 1999

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Before McMILLIAN, RICHARD S. ARNOLD, and MORRIS SHEPPARD  
ARNOLD, Circuit Judges.

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PER CURIAM.

Valomark Love appeals from the District Court's<sup>1</sup> judgment for defendant Postmaster General after a bench trial. Love had been discharged by the United States Postal Service for failure to maintain a regular work schedule. In 1996, Love, who is an African-American male, filed this action claiming that the Postal Service

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<sup>1</sup>The Honorable William G. Cambridge, Jr., Chief Judge, United States District Court for the District of Nebraska.

discriminated against him because of his race, sex, and disability. Love's request for appointment of counsel was denied,<sup>2</sup> as was his October 30, 1997 motion to amend his complaint.<sup>3</sup> On March 17, 1998, the District Court conducted a bench trial, at which Love appeared pro se. On the first day of trial, the Court indicated it had denied Love's second motion to amend his complaint. During the four-day trial, Love presented eleven witnesses, including himself, and introduced thirty-five exhibits. Although Love established a prima facie case of discrimination, the Court concluded that the Postal Service showed a legitimate, nondiscriminatory reason for terminating Love's employment, and that Love failed to show the reason was pretextual. For reversal, Love argues that he established pretext, he should have been allowed to amend his complaint to add a claim of disparate impact, and counsel should have been appointed for him.

Having carefully reviewed the record and the parties' briefs, we find the record does not support Love's allegation that the Postal Service intentionally discriminated against Love because of his race, sex, or disability, and thus we conclude the District Court's determination was not clearly erroneous. See Peanick v. Morris, 96 F.3d 316, 321 (8th Cir. 1996); Beith v. Nitrogen Prods., Inc., 7 F.3d 701, 703 (8th Cir. 1993) (per curiam). We further conclude there was no abuse of discretion in denying Love's motion for appointment of counsel, see Swope v. Cameron, 73 F.3d 850, 851-52 (8th Cir. 1996), and no abuse of discretion in denying Love leave to amend his complaint, see Vitale v. Aetna Cas. & Sur. Co., 814 F.2d 1242, 1251 (8th Cir. 1987).

Accordingly, we affirm.

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<sup>2</sup>The Honorable David L. Piester, United States Magistrate Judge for the District of Nebraska.

<sup>3</sup>The Honorable Kathleen Ann Jaudzemis, United States Magistrate Judge for the District of Nebraska.

A true copy.

Attest:

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