

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

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No. 98-2932

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Fred Miller, Jr.,	*	
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Plaintiff - Appellant,	*	
	*	Appeal from the United States
v.	*	District Court for the
	*	Eastern District of Missouri.
American States Insurance Company,	*	
	*	[UNPUBLISHED]
Defendant - Appellee.	*	

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Submitted: February 8, 1999

Filed: April 13, 1999

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

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PER CURIAM.

Jacquelyn O. Brinkley commenced this action claiming that her former employer, American States Insurance Company, wrongfully terminated her employment as a claims adjuster on account of her race and gender. Brinkley committed suicide, and her husband, Fred Miller, Jr., was substituted as plaintiff.

Miller now appeals the district court's<sup>1</sup> grant of summary judgment dismissing the Title VII race discrimination claim.

After careful review of the record, we agree with the district court that American States presented evidence of a legitimate nondiscriminatory reason for Brinkley's discharge -- her repeated submission of travel expense reports containing false odometer readings from the personal automobile she used for reimbursable business travel. We further agree with the district court that, although Miller presented evidence that Brinkley's false readings reflected mistaken estimates, rather than an attempt to cheat American States, Miller presented no evidence that Brinkley was treated more harshly than similarly situated white employees, and no other evidence that American States's asserted reason for the termination was a pretext for race discrimination. Finally, like the district court, we are not persuaded that American States's inability to produce contemporaneous odometer reading records for other employees warranted the denial of summary judgment dismissing this Title VII claim.

Accordingly, we affirm the judgment of the district court. See 8th Cir. Rule 47B.

A true copy.

Attest:

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

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<sup>1</sup>The HONORABLE MARY ANN L. MEDLER, United States Magistrate Judge for the Eastern District of Missouri, to whom the case was assigned with the consent of the parties. See 28 U.S.C. § 636(c).