

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

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No. 98-4169NE

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Marlin E. Jones,

Appellant,

v.

Ideal Linen Supply,

Appellee.

\*  
\* On Appeal from the United  
\* States District Court  
\* for the District of  
\* Nebraska.  
\*  
\* [Not to be Published]  
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Submitted: September 3, 1999

Filed: September 15, 1999

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Before McMILLIAN, RICHARD S. ARNOLD, and HANSEN, Circuit Judges.

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PER CURIAM.

Marlin Jones appeals from the District Court's<sup>1</sup> order denying his motion to set aside the verdict reached after a jury trial on his claim of age discrimination. After careful review of the record and the parties' submissions, we conclude that the District Court properly treated the motion as one for a new trial, see Brown v. Royalty, 535 F.2d 1024, 1028 (8th Cir. 1976), and did not abuse its discretion in denying the

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<sup>1</sup>The Honorable David L. Piester, United States Magistrate Judge for the District of Nebraska, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).

motion. Jones never specified how his counsel's alleged misconduct prejudiced his case, see Hofer v. Mack Trucks, Inc., 981 F.2d 377, 385 (8th Cir. 1992) (misconduct is prejudicial if it affects movant's substantial rights or unduly taints proceedings); Dabney v. Montgomery Ward & Co., 761 F.2d 494, 500 (8th Cir.) (standard of review), cert. denied, 474 U.S. 904 (1985).

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

A true copy.

Attest:

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