

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 07-15939  
\_\_\_\_\_

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT OCT 22, 2008 THOMAS K. KAHN CLERK
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D.C. Docket No. 03-21764-CV-FAM

EUGENE CAVICCHI,

Plaintiff-Appellant,

versus

HOMELAND SECURITY SECRETARY,  
Michael Chertoff and the United States Department of  
Homeland Security by and through The Bureau of Customs and  
Border Protection,

Defendant-Appellee.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Florida  
\_\_\_\_\_

**(October 22, 2008)**

Before TJOFLAT and CARNES, Circuit Judges, and THRASH,\* District Judge.

\_\_\_\_\_  
\* Honorable Thomas W. Thrash, United States District Judge for the Northern District of Georgia, sitting by designation.

PER CURIAM:

This case is here after limited remand from this Court so that the district court could apply the standard set out in the intervening decision in Burlington Northern & Sante Fe Railway Co. v. White, 548 U.S. 53, 126 S. Ct. 2405 (2006). On remand, the district court applied the Burlington Northern standard and, once again, entered summary judgment against Eugene Cavicchi and in favor of his former employer, the Department of Homeland Security, formerly the United States Customs Service.

After studying the briefs, considering the pertinent parts of the record, and listening carefully to oral argument, we conclude that the district court did not err in its application of the Burlington Northern standard. As for Cavicchi's complaints about the way the lawsuit was handled in the district court on remand, there was no abuse of discretion in regard to any of the procedural rulings or matters he has raised.

AFFIRMED.