

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-2345

MAUREEN L. EDWARDS,

Plaintiff - Appellant,

v.

SMITHKLINE BEECHAM CORPORATION, d/b/a GlaxoSmithKline,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. William D. Quarles, Jr., District Judge. (1:08-cv-01250-WDQ)

Submitted: July 9, 2009

Decided: July 27, 2009

Before NIEMEYER, SHEDD, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Joyce E. Smithey, RIFKIN, LIVINGSTON, LEVITAN & SILVER, LLC, Annapolis, Maryland, for Appellant. Deborah K. St. Lawrence, BROWN & SHEEHAN, LLP, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Maureen L. Edwards appeals the district court's order dismissing her complaint, which alleged violation of the Employee Retirement Income Security Act ("ERISA") and state employment law, and denying her motion for reconsideration. We have reviewed the parties' briefs and joint appendix and find no reversible error. Accordingly, we affirm primarily for the reasons stated by the district court. See Edwards v. SmithKline Beecham Corp., No. 1:08-cv-01250-WDQ (D. Md. Sept. 18 & Nov. 20, 2008).

We briefly address Edwards' assertion that the district claim failed to address her contention that her exhaustion of remedies was not required regarding her claim of wrongful discharge. Even assuming that an ERISA wrongful discharge claim does not require exhaustion of administrative remedies, Edwards' complaint does not raise this claim. Instead, in Edwards' ERISA claim in her complaint, she averred only that GSK interfered with her right to retirement and other severance benefits. Wrongful discharge was raised only as a violation of state law. Moreover, we find the claim of wrongful termination that Edwards now attempts to assert would have been insufficient to survive the motion to dismiss. See Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007) (holding that to survive a motion to dismiss, "[f]actual allegations must be

enough to raise a right to relief above the speculative level" and the complaint must contain "enough facts to state a claim to relief that is plausible on its face").

Accordingly, we affirm the judgment of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED