

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-1506

GREGORY SOMERS,

Plaintiff - Appellant,

v.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, an agency of the
United States of America; JACQUELINE A. BERRIEN; NICHOLAS M.
INZEO,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Greenville. Mary G. Lewis, District Judge.
(6:13-cv-00257-MGL)

Submitted: October 27, 2014

Decided: January 9, 2015

Before DUNCAN and DIAZ, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

Timothy J. Newton, MURPHY & GRANTLAND, PA, Columbia, South
Carolina, for Appellant. Stuart F. Delery, Assistant Attorney
General, Marleigh D. Dover, Daniel Tenny, UNITED STATES
DEPARTMENT OF JUSTICE, Washington, D.C.; William N. Nettles,
United States Attorney, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gregory Somers appeals the district court's order accepting the recommendation of the magistrate judge, granting the Defendants' motion to dismiss his civil complaint pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(6), denying his motion to amend, and dismissing all of his claims without prejudice. On appeal, Somers contends that the district court erred in ruling that his non-Title VII claims were preempted by Title VII, in ruling that he failed to state a claim for relief under Title VII, and in denying his motion to amend. We affirm.

"On appeal from a motion to dismiss under Federal Rule of Civil Procedure 12(b)(1), [w]e review the district court's factual findings with respect to jurisdiction for clear error and the legal conclusion that flows therefrom de novo." In re KBR, Inc., Burn Pit Litig., 744 F.3d 326, 333 (4th Cir. 2014) (citation and internal quotations omitted). "On review of a Rule 12(b)(6) dismissal, we consider a case de novo," evaluating "whether the complaint states a claim to relief that is plausible on its face." United States ex rel. Oberg v. Pennsylvania Higher Educ. Assistance Agency, 745 F.3d 131, 136 (4th Cir. 2014) (citations and internal quotations omitted). "Generally, we review a district court's denial of a motion for leave to amend for abuse of discretion," "[b]ut where, as here, the district court denied such a motion on grounds of futility,

we employ the same standard that would apply to our review of a motion to dismiss." United States ex rel. Ahumada v. NISH, 756 F.3d 268, 274 (4th Cir. 2014) (citations and internal quotations omitted).

With these standards in mind, we have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. See Somers v. EEOC, No. 6:13-cv-00257-MGL (D.S.C. Mar. 26, 2014). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED