

United States Court of Appeals
For the Eighth Circuit

No. 18-2203

Devonna Culpepper

Plaintiff - Appellant

v.

Department of Agriculture, U.S., Sonny Perdue, Secretary

Defendant - Appellee

Appeal from United States District Court
for the Eastern District of Arkansas - Little Rock

Submitted: February 15, 2019

Filed: March 7, 2019

[Unpublished]

Before LOKEN, COLLOTON, and KOBES, Circuit Judges.

PER CURIAM.

In this action alleging violations of Section 508 of the Rehabilitation Act of 1973 (Section 508), 29 U.S.C. § 701 et seq., Devonna Culpepper appeals from the

adverse grant of summary judgment entered by the district court¹ in favor of her employer, the United States Department of Agriculture (USDA).² After de novo review, we conclude that the USDA is entitled to judgment as a matter of law because Culpepper did not show that she was subjected to a materially adverse employment action and therefore she failed to establish a prima facie case under Section 508. See Peebles v. Potter, 354 F.3d 761, 765 (8th Cir. 2004) (summary judgment grant reviewed de novo); Fenney v. Dakota, Minn. & E. R.R. Co., 327 F.3d 707, 711-12 (8th Cir. 2003) (claims for disparate treatment and reasonable accommodation require prima facie showing that employee has disability, is a qualified individual, and suffered an adverse employment action). The judgment is affirmed. See 8th Cir. R. 47B.

¹The Honorable James M. Moody, Jr., United States District Judge for the Eastern District of Arkansas.

²The district court's dismissal of Culpepper's (1) claims brought pursuant to the Freedom of Information Act, and (2) claims previously litigated, is not before the panel. See Chay-Velasquez v. Ashcroft, 367 F.3d 751, 756 (8th Cir. 2004) (claim waived when not meaningfully argued in opening brief).