

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 21 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JANET R. MAYS,

Plaintiff - Appellant,

v.

QWEST CORPORATION, a foreign
company, AKA Qwest Communications
Company LLC,

Defendant - Appellee.

No. 11-15556

D.C. No. 2:09-cv-01140-ROS

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Roslyn O. Silver, Chief District Judge, Presiding

Argued and Submitted June 12, 2012
San Francisco, California

Before: FERNANDEZ, GOULD, and BEA, Circuit Judges.

Plaintiff-appellant Janet Mays appeals from the judgment entered following the district court's grant of a motion for summary judgment in favor of defendant-appellee Qwest Corporation. Because the parties are familiar with the facts, we do

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

not recite them further except as necessary to explain our decision. We have jurisdiction over this matter under 28 U.S.C. § 1291, and we affirm.

Mays did not establish a prima facie case of employment discrimination as required under *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973). Mays failed to show the existence of a genuine issue of material fact that she was qualified for the Lee Circle fiber splicing position in 2007 because the uncontroverted evidence showed that she did not request a transfer to fiber splicing at Lee Circle on her LMR form at that time.

Supposing she made out a prima facie case under *McDonnell Douglas*, Mays' claim further fails for the independent reason that she has failed to create a triable issue of material fact as to pretext. 411 U.S. at 804.

Finally, since Mays was transferred to Lee Circle as soon as she was eligible after filing a request to transfer to Lee Circle, under *Bradley v. Harcourt, Brace and Co.*, 104 F.3d 267, 270 (9th Cir. 1996), there is a strong inference that no one at Qwest held a discriminatory animus against Mays.

AFFIRMED.