

Muldrow No Help In United Age Bias Case, 7th Circ. Says

By **Patrick Hoff**

Law360 (June 30, 2025, 6:42 PM EDT) -- The Seventh Circuit backed United Airlines' win over a suit from a former communications worker who alleged she was placed on a performance improvement plan because she complained about age bias, rejecting her argument that the U.S. Supreme Court's 2024 Muldrow decision put her case on solid ground.

In an opinion Friday, a unanimous three-judge panel affirmed summary judgment in favor of United Airlines Inc. in Mary Ann Arnold's suit alleging age bias and retaliation under the Age Discrimination in Employment Act and the Illinois Human Rights Act. The panel backed a trial court's decision that being put on a PIP wasn't an adverse employment action that she could sue over.

During oral arguments in April, counsel for Arnold and the U.S. Equal Employment Opportunity Commission, which filed an amicus brief in the case, said the district court erroneously ignored the Supreme Court's Muldrow v. St. Louis ruling when it tossed the suit. In the April 2024 Muldrow decision, the justices clarified that plaintiffs need only show "some harm" related to a term or condition of their employment to have actionable discrimination claims under Title VII.

However, the Seventh Circuit panel said Friday that even under Muldrow's more lenient standard, Arnold failed to show she'd faced an adverse employment action that could bolster her case. According to the opinion, while Arnold was placed on a PIP and a reorganization of United's communications department changed some of her day-to-day responsibilities, she stayed on the same team in the department, and her compensation, benefits, vacation time and working hours were unchanged.

"She was given some additional assignments, and some of her assignments changed," U.S. Circuit Judge Kenneth F. Ripple wrote for the panel. "But these changes were all within the normal scope of her employment and thus did not adversely affect the terms and conditions of her employment. The record hardly describes an adverse action under the standard articulated in Muldrow."

The appeals panel said that even if Arnold had been able to show she'd suffered an adverse employment action, she failed to demonstrate that United treated her differently from younger employees. According to the judges, Arnold compared herself to three other employees, including two whom she said took over a key project she was working on. But one of the workers was only six years younger than Arnold, and she didn't provide evidence beyond her own testimony about the other colleagues' ages, the judges said.

Arnold, who worked for United Airlines for 26 years, filed her suit against the company in Illinois state

court in June 2021, and the airline removed the case to federal court in January 2022. According to her complaint, Arnold complained to human resources in August 2017, when she was in her late 40s, that she was being targeted for furlough because of her age.

In mid-2018, she also complained that her manager had sexually harassed her on a business trip, and she was eventually moved to a new position to get away from that supervisor, Arnold said.

Arnold claimed that United restructured her team in mid-September 2019, removing her from a major project she'd been working on and subjecting her work to excessive scrutiny because of her age. She complained that the project had been taken away because she was in her early 50s, but United brushed her objections aside, and a few months later, Arnold was given the first negative performance evaluation of her tenure, according to the complaint.

Arnold said she was subsequently placed on a PIP in February 2020, even though she'd only received a "partially meets expectations" rating once, and by May 2020, she felt she had no choice but to retire.

She argued on appeal that her retaliation claim was based on both her age bias and sexual harassment complaints to United. But the appeals panel said Friday that Arnold never brought a sex discrimination claim when her case was before the district court.

"Ms. Arnold's sexual harassment complaint to United cannot support her retaliation claim in this action predicated on a violation of the ADEA," Judge Ripple wrote. "Nor can Ms. Arnold's negative performance review and placement on a PIP constitute materially adverse actions. Accordingly, we affirm the district court's dismissal of her retaliation claim."

A spokesperson for United Airlines said in a statement to Law360 that it's pleased with the court's decision.

Counsel for Arnold did not immediately respond to a request for comment Monday.

U.S. Circuit Judges Kenneth F. Ripple, David F. Hamilton and Doris L. Pryor sat on the panel for the Seventh Circuit.

Arnold is represented by Danielle Hamilton, Kana Turley, Jacob Allen and Anirudh Koka of the Northwestern University Pritzker School of Law Carter G. Phillips Center for Supreme Court and Appellate Advocacy.

United Airlines is represented by Alan S. King and Noreen Cull of Riley Safer Holmes & Cancila LLP.

The case is Mary Ann Arnold v. United Airlines Inc., case number 24-2179, in the U.S. Court of Appeals for the Seventh Circuit.

--Additional reporting by Vin Gurrieri. Editing by Abbie Sarfo.