

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14-7085

September Term, 2015

FILED ON: JANUARY 29, 2016

EVELYN PRIMAS,

APPELLANT

v.

DISTRICT OF COLUMBIA AND CATHY L. LANIER, CHIEF OF POLICE, IN BOTH HER OFFICIAL AND
INDIVIDUAL CAPACITIES,

APPELLEES

Appeal from the United States District Court
for the District of Columbia
(No. 1:09-cv-02317)

Before: BROWN, KAVANAUGH, and PILLARD, *Circuit Judges*.

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs of the parties. The Court has afforded the issues full consideration and has determined that they do not warrant a published opinion. *See* Fed. R. App. P. 36; D.C. Cir. R. 36(d). It is

ORDERED and **ADJUDGED** that the judgment of the District Court is hereby **AFFIRMED**.

Evelyn Primas brought an employment discrimination suit against the District of Columbia and Police Chief Cathy Lanier. The case went to trial, and the jury returned a verdict for the defendants. Primas now appeals. She raises three primary arguments, none of which is persuasive.

First, Primas complains that the District Court did not allow her to argue to the jury that she suffered constructive discharge. But Primas proffered insufficient evidence that a reasonable person in her position would have found working conditions untenable to the point of feeling compelled to resign. *See Aliotta v. Bair*, 614 F.3d 556, 566 (D.C. Cir. 2010). Therefore, no reasonable jury could find that Primas satisfied the objective test for constructive discharge, and the District Court permissibly prevented Primas from offering that theory to the jury.

Second, Primas objects to the jury instructions' description of the alleged adverse employment action. But the District Court's characterization was consistent with this Court's prior description of Primas's claim. *See Primas v. District of Columbia*, 719 F.3d 693, 697 (D.C. Cir. 2013). Furthermore, Primas's proposed language was not materially different from the language that the District Court used. *See Czekalski v. LaHood*, 589 F.3d 449, 453-55 (D.C. Cir. 2009).

Finally, Primas argues that the District Court improperly limited evidence of (i) the relative qualifications of Primas and Marcus Westover, (ii) Primas's qualifications for other Commander positions within the police department, and (iii) the status of papering reform. But the District Court did not abuse its discretion in concluding that the excluded evidence on all three topics was cumulative, irrelevant, or both. *See Fed. R. Evid.* 401, 403.

Because Primas has not identified any reversible error, the judgment of the District Court is affirmed.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. *See Fed. R. App. P.* 41(b); D.C. Cir. R. 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk