

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

OCT 01 2009

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

CHERYL LYNN RICE,

Plaintiff - Appellant,

v.

JOHN E. POTTER, Postmaster General
United States Postal Service,

Defendant - Appellee.

No. 07-35580

D.C. No. CV-05-00159-
DWM/JCL

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Argued and Submitted September 15, 2009
San Francisco, California

Before: SCHROEDER, REINHARDT and HAWKINS, Circuit Judges.

This is an employment discrimination case challenging events that occurred while the plaintiff-appellant Cheryl Lynn Rice was employed by the United States Postal Service between 1977 and 1989. She filed this case in 2005, and the district

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

court dismissed the case for failure to exhaust administrative remedies, holding that she provided no sufficient justification for her delay of fourteen years before initiating any action.

In her appeal, she contends that her delay should be excused on alternative grounds. We included the case in our Pro Bono Representation Project and on appeal Rice has been ably represented by the University of Arizona Pro Bono Appellate Project. There is, however, no basis for invoking equitable estoppel, equitable tolling, or the discovery rule in this case. Appellant did not have any information at the time that she instituted this action that was unavailable to her in 1989. Lukovsky v. City and County of San Francisco, 535 F.3d 1044, 1048-51 (9th Cir. 2008) (discovery rule); Santa Maria v. Pac. Bell, 202 F.3d 1170, 1176-79 (9th Cir. 2000) (equitable tolling and estoppel).

AFFIRMED.