

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-13950

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT APR 3, 2007 THOMAS K. KAHN CLERK
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D. C. Docket No. 04-01270-CV-T-17-MSS

JAMES C. BOTHWELL,

Plaintiff-Appellant,

versus

RMC EWELL, INC., a Florida corporation,
RMC INDUSTRIES CORP., a
Delaware corporation,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida

(April 3, 2007)

Before CARNES, WILSON and HILL, Circuit Judges.

PER CURIAM:

In deciding to enter summary judgment in favor of the defendant on the Title VII retaliation claim, the district court applied our circuit law requiring that

the plaintiff establish an adverse employment action as an element of such a claim. Since then the Supreme Court has issued its decision in Burlington Northern & Santa Fe v. White, 126 S.Ct. 2405 (2006), which changes the law that must be applied in this circuit. Without implying how the issue should be decided, we think it best to allow the district court in the first instance to address the Title VII retaliation claim in light of the Burlington Northern decision.

If there is an appeal after this remand, we leave it to the parties whether they file in this Court in connection with that new appeal entirely new briefs to replace the ones we already have, or instead file supplemental briefs to be considered in addition to the briefs already on file.

Accordingly, the judgment in this case is VACATED in its entirety and the case is REMANDED with instructions that the district court should reconsider its decision of the Title VII retaliation claim in light of Burlington Northern & Santa Fe v. White, 126 S.Ct. 2405 (2006).