

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 08-13464  
\_\_\_\_\_

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT MARCH 17, 2009 THOMAS K. KAHN CLERK
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D. C. Docket No. 07-14215-CV-KMM

JUDITH A. BUNNELL,

Plaintiff-Appellant,

versus

J.C. PENNEY CORPORATION, INC.,

Defendant-Appellee.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Florida  
\_\_\_\_\_

(March 17, 2009)

Before BARKETT and FAY, Circuit Judges, and TRAGER,\* District Judge.

PER CURIAM:

\_\_\_\_\_  
\* Honorable David G. Trager, United States District Judge for the Eastern District of New York, sitting by designation.

Judith Bunnell appeals from an adverse summary judgment in favor of J.C. Penney on her complaint alleging age discrimination, in violation of the Florida Civil Rights Act of 1992, Fla. Stat. § 760.10(1)(a) (“FCRA”). The parties do not dispute that Bunnell established a prima facie case. The only issue here is whether the district court erred in granting Penney’s motion for summary judgment on the basis that Penney’s reason for terminating Bunnell’s employment was not a pretext for age discrimination.

Upon review of the record, we find disputed issues of material fact that preclude summary judgment. Thus, we vacate the summary judgment and remand for further proceedings.

VACATED and REMANDED.