IN THE COURT OF APPEALS OF IOWA

No. 1-118 / 00-0867
Filed October 12, 2001

THOMAS LEROY WILSON, SR.,
Plaintiff-Appellant,

vs.

EIGHTH JUDICIAL DISTRICT DEPARTMENT OF CORRECTIONAL SERVICES, An Agency of the State of Iowa,
Defendant-Appellee.

FILED
OCT 12 2001
CLERK SUPREME COURT

Appeal from the Iowa District Court for Des Moines County, William L. Dowell, Judge.

Thomas Wilson, Sr. appeals from the district court's ruling striking his demand for a jury trial in his civil rights action against the defendant. **AFFIRMED.**

Andrew S. Hoth of Hoth Law Offices, Burlington, for appellant.

Thomas J. Miller, Attorney General, and Layne M. Lindabak, Assistant Attorney General, for appellee.

Considered by Huitink, P.J., and Vogel and Mahan, JJ.

PER CURIAM

Thomas Wilson filed an action against the agency claiming racial discrimination in failing to promote him and in terminating his employment. He claims the court erred in striking his demand for a jury trial. We affirm.

Wilson is a black male who was employed by the Eighth Judicial District Department of Correctional Services in Burlington. He, along with several others, applied for promotion to the position of residential counselor. A white female received the promotion. He later was fired for violating the code of conduct and work rules of the district.

He filed suit alleging racial discrimination in the agency's failure to promote him and in his termination. He made a demand for a jury trial. The agency moved to strike the jury demand. The court struck Wilson's jury demand and heard the case. The court ruled against Wilson on his discrimination claims.

On appeal, Wilson does not challenge the court's ruling on the merits of his discrimination case. He only claims the court erred in striking his demand for a jury trial.

The supreme court has ruled there is no constitutional or statutory right to a jury trial in suits filed under Iowa Code chapter 601A (now chapter 216). *Smith v. ADM Feed Corp.*, 380 N.W.2d 378, 380-84 (Iowa 1990). This court has followed that precedent in two subsequent cases. *Ramirez v. Iowa Dep't of Transp.*, 546 N.W.2d 629 (Iowa Ct. App. 1996); *Reiss v. ICI Seeds, Inc.*, 548 N.W.2d 170 (Iowa Ct. App. 1996). Wilson's attempts to distinguish his case from *Smith* by arguing the defendant in *Smith* was not a state agency, a government

actor, is without merit. The supreme court's decision was based on the purpose of the statute, not the nature of the parties. *Smith*, 456 N.W.2d at 380-81. In addition, the statute's definition of "person" includes individuals, business entities, and the state with all its subdivisions and agencies. Iowa Code § 216.2(12). The district court did not err in striking Wilson's demand for a jury trial.

AFFIRMED.