

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted January 6, 2026*

Decided January 6, 2026

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 25-1582

SANDEE RAE BERG,
Plaintiff-Appellant,

v.

ALLIED UNIVERSAL SECURITY
SERVICES,
Defendant-Appellee.

Appeal from the United States District
Court for the Eastern District of
Wisconsin.

No. 24-CV-1311

Byron B. Conway,
Judge.

ORDER

Sandee Berg appeals a judgment dismissing her claims of employment discrimination as untimely. She informs us that the district court based its ruling on an error in her complaint regarding the date she filed a charge with the Equal Employment

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

Opportunity Commission. But because she did not present this information to the district court, we affirm.

Berg worked for Allied Universal Security Services as a security guard until she was fired on May 28, 2020. In October 2024, she filed a form complaint for employment discrimination against Allied, checking off boxes indicating that she had been fired, denied accommodations for her disability (which she identified elsewhere as fibromyalgia), and retaliated against in violation of the Americans with Disabilities Act, 42 U.S.C. §§ 12112, 12117; the Age Discrimination in Employment Act, 29 U.S.C. §§ 623, 626; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2, 2000e-3, 2000e-5. On the section of the form entitled “Exhaustion of Federal Administrative Remedies,” she stated that she filed a charge with the Equal Employment Opportunity Commission on April 21, 2021.

Allied moved to dismiss the complaint for failure to exhaust administrative remedies. Allied pointed out that if—as alleged—it fired Berg on May 28, 2020, then the statutory deadline for her to file a charge of discrimination was March 24, 2021 (300 days later), and she alleged that she did not file her charge of discrimination with the EEOC until April 21, 2021. Berg did not respond to the motion.

The district court accepted Allied’s argument that Berg’s administrative charge was about a month late and granted the motion to dismiss. *See* 29 U.S.C. § 626(d)(1); 42 U.S.C. §§ 2000e-5(e)(1), 12117(a). And because the defect in Berg’s complaint—the untimeliness of her charge to the EEOC—could not be remedied by amendment, the court dismissed her claims with prejudice.

On appeal, Berg asserts for the first time that she listed the wrong filing date for her EEOC charge—she says that the actual filing date was March 22, 2021, only 298 days after her discharge—and that the district court should have given her an opportunity to amend her complaint. She now states that April 21, 2021, was the date when she filed a charge with the Wisconsin Equal Rights Division and that her error stems from her difficulty accessing documents through the EEOC’s online portal.

But because Berg never presented this information to the district court, we may not consider it. Our review is limited to the record created in the district court, so any argument that depends on extra-record information has “no prospect of success.” *Prairie Rivers Network v. Dynegy Midwest Generation, LLC*, 2 F.4th 1002, 1013 (7th Cir. 2021) (internal citation omitted). Based on the timeline Berg presented on her form complaint, the district court was entitled to conclude that she had admitted the

elements of Allied's affirmative defense. *See Luna Vanegas v. Signet Builders, Inc.*, 46 F.4th 636, 645 (7th Cir. 2022). And because amendment would have been futile based on the facts alleged, *see Esco v. City of Chicago*, 107 F.4th 673, 683 (7th Cir. 2024), the court was within its discretion to dismiss the complaint with prejudice.[†]

AFFIRMED

[†] After Berg realized her error, she could have filed a post-judgment motion to inform the court and seek leave to amend her complaint. *See* FED. R. CIV. P. 59(e), 60(b); *NewSpin Sports, LLC v. Arrow Elecs., Inc.*, 910 F.3d 293, 310 (7th Cir. 2018).