

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

ANGELA DAVIS	*	
	*	
Plaintiff	*	4:03-cv-90223
	*	
v.	*	
	*	
HEARTLAND PORK ENTERPRISES, INC.,	*	
PAUL WETTSTEIN, ANDREW DAVIS, and	*	
DARRIN HINDS	*	MEMORANDUM OPINION
	*	AND ORDER
Defendants.	*	
	*	

Before the Court is the individually named Defendants' Motion to Dismiss Count One of Plaintiff's Complaint under Fed.R.Civ.P. Rule 12 (b)(6) for failure to state a claim upon which relief may be granted. Count I of Plaintiff's Complaint alleges a cause of action against all Defendants under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, for sexual discrimination, sexual harassment, and retaliation. Defendants Paul Wettstein, Andrew Davis, and Darrin Hinds were co-workers of Plaintiffs at a Heartland Pork facility in Leon, Iowa. In support of their Motion to dismiss, Defendants accurately note that the United States Court of Appeals for the Eighth Circuit has held that individual employees may not be held liable under Title VII. *See e.g. Schoffstall v. Henderson*, 223 F.3d 818, 821 n.2 (8th Cir. 2000); *Bales v. Wal-Mart Stores*, 143 F.3d 1103, 1111 (8th Cir. 1998); *Spencer v. Ripley County State Bank*, 123 F.3d 690 (8th Cir. 1997).

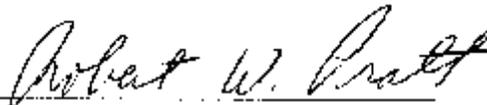
Plaintiff has resisted the Motion in contravention to Local Rule 7.1 (e) as she has filed no brief to support her resistance. Plaintiff's resistance does not challenge Defendants' interpretation of Eighth Circuit law. Rather, Plaintiff argues only that the United States Supreme Court has not ruled on the issue. As an initial matter, the Supreme Court has had ample opportunity to review the question, but

has refused to do so. *See Miller v. Maxwell Int'l*, 991 F.2d 583, 587-88 (9th Cir. 1993), cert. denied, *Miller v. La Rosa*, 510 U.S. 1109 (1994).

The Court recognizes and respects that Plaintiff is attempting to change what she believes to be an erroneous interpretation of the law. *See Fed.R.Civ.P. R. 11(b)(2)*. This Court, however, is not the proper forum to change the existing law of the Circuit. "District courts are bound by the law of their own circuit." *Hasbrouck v. Texaco Inc.*, 663 F.2d 930, 933 (9th Cir. 1981), cert. denied 459 U.S. 828 (1982). As the Eighth Circuit recently stated: "[n]either a district court nor a subsequent panel of this Court is free to disregard a previous opinion of this Court on the theory that that earlier opinion was an incorrect interpretation of Supreme Court authority existing at the time." *United States v. Johnson*, 2003 U.S. App. LEXIS 15247 (8th Cir. 2003). And, "[h]istorically, the system has operated in hierarchical fashion . . . [t]he Supreme Court overrules appellate court decisions, not the other way around." *Holst v. Bowen*, 637 F.Supp. 145, 147-48 (E.D. Wash. 1986) (citing *Thurston Motor Lines v. Jordan K. Rand, Ltd.*, 460 U.S. 533, 535 (1983)). "The court of appeals overrules decisions of the trial court, not the other way around." *Id.* at 148 (citing *Hasbrouck*, 663 F.2d at 933)). Lastly, noting that the Eighth Circuit and not the Supreme Court initially reviews the opinions of this Court, the Court respectfully declines Plaintiff's invitation to overrule Eighth Circuit law. Defendants' Motion to Dismiss Count I as it pertains to the individual Defendants is **granted**.

IT IS SO ORDERED.

Dated this ___13th___ day of August, 2003.



ROBERT W. PRATT
U.S. DISTRICT JUDGE