

WCT

**U.S. District Court
Southern District of Florida (Miami)
CIVIL DOCKET FOR CASE #: 1:14-cv-20562-KMW
Internal Use Only**

Moctezuma v. Postmaster General et al
Assigned to: Judge Kathleen M. Williams
Cause: 28:1983 Civil Rights

Date Filed: 02/14/2014
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: U.S. Government Defendant

Plaintiff**Raymond Moctezuma, Jr.**represented by **Raymond Moctezuma, Jr.**

Unit # 47
14912 SW 104th Street
Miami, FL 33196-3374
(305) 807-2912
PRO SE

V.

Defendant

Postmaster General
Patrick R. Donahoe

Defendant

US Postal Service
South East ARea

Date Filed	#	Docket Text
02/14/2014	<u>1</u>	COMPLAINT against Postmaster General, US Postal Service. Filing fees \$ 400.00. IFP Filed, filed by Raymond Moctezuma, Jr. (Attachments: # <u>1</u> Civil Cover Sheet) (vjk) (Entered: 02/14/2014)
02/14/2014	2	Judge Assignment to Judge Kathleen M. Williams (vjk) (Entered: 02/14/2014)
02/14/2014	<u>3</u>	APPLICATION to Proceed in District Court without prepaying fees or costs by Raymond Moctezuma, Jr. (vjk) (Entered: 02/14/2014)
02/14/2014	<u>4</u>	RIGHT to request Counsel by Raymond Moctezuma, Jr. Responses due by 3/3/2014 (vjk) (Entered: 02/14/2014)
03/07/2014	<u>5</u>	ORDER dismissing <u>1</u> Complaint; denying <u>3</u> Motion for Leave to Proceed in forma pauperis; denying as moot <u>4</u> Motion to Appoint Counsel (Amended Pleadings due by 4/7/2014.). Signed by Judge Kathleen M. Williams on 3/7/2014. (yha) (Entered: 03/07/2014)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 14-cv-20562-Williams/Turnoff

**The attached hand-written
document
has been scanned and is
also available in the
SUPPLEMENTAL
PAPER FILE**

(Rev. 10/2002) General Document

UNITED STATES DISTRICT COURT
Southern District of Florida

Case Number: _____

Raymond Moctezuma JR.

Plaintiff(s)

v.

Patrick R. Donahoe
POST master General
U.S. POSTAL Service
SOUTH EAST AREA

Defendant(s)

FILED by AJS D.C.
FEB 14 2014
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

Complaint

(TITLE OF DOCUMENT)

I, Raymond Moctezuma JR plaintiff or defendant, in the above styled cause,

I have had my civil Rights VIOLATED by the U.S. POSTAL Service including my Rights under the title VII of the Civil Rights Act of 1964. I'm a minority person, Puerto Rican and Disable Veteran with Service connected Disability

I have worked at the Postal Service since 1994 (November) and I was a good Employee. I held Supervisory position and helped a lot of my co-workers. I never had serious problems at work but they discriminated me and kept me out of work.

(Rev. 10/2002) General Document

Back in 2008 I had filed an EEO Claim and after I won and received back PAY I was still discriminated and later suspended ^{me} when they could have brought me by to work. They suspended me for something that no one else would be suspended. They did not like me being Puerto Rican and they did not feel that my military service was important by the treatment that I received from management and the union that did not help my case any. This whole case and situation has been totally mis handled. IF The color of my skin had been different I would not have been suspended and put on leave without pay (LWOP). I know of other cases than mine and no one got fired.

Certificate of Service

I _____, certify that on this date _____ a true copy

of the foregoing document was mailed to: _____
name(s) and address(es)

By:

Printed or typed name of Filer

Signature of Filer

Florida Bar Number

E-mail address

Phone Number

Facsimile Number

Street Address

City, State, Zip Code

(Rev. 10/2002) General Document

I had other incidents or times of discrimination but I need a lawyer to help me explain them to you.

I need to have an independent judge look at my case and give me back my job / return me to work. I'm still a postal employee at this present time. I'm currently on LWOP (Leave with out pay). I need my Rights back as well. I've been violated all this time and I'm hurting. I need Justice. The EEOC / UFO Did not take my case as that is why I am filing these charges. AT This point I still am willing to settle out of court. I need assistance in meeting with the postal party.

Certificate of Service

I _____, certify that on this date _____ a true copy of the foregoing document was mailed to: _____ name(s) and address(es)

By:

Printed or typed name of Filer

Signature of Filer

Florida Bar Number

E-mail address

Phone Number

Facsimile Number

Street Address

City, State, Zip Code

(Rev. 10/2002) General Document

I Apologize but I'm not a Lawyer and I can not say these things in Fancy words or lawyer terminology. Please Help me get my Rights and Justice. I Ask for a Lawyer to help me so that this said better. Thanks for your consideration and GOD Bless us all and America. Have a Blessed day and Happy Valentine day.

Certificate of Service

I Raymond Moctezuma Jr, certify that on this date 2-14-14 a true copy of the foregoing document was mailed to: U.S. Postal Service (South east)
name(s) and address(es)

NEEOISO - Appeals U.S. Postal Service
P.O. Box 21979 Tampa, FL 33622-1979

By: Raymond Moctezuma
Printed or typed name of Filer

Raymond Moctezuma Jr
Signature of Filer

Pro se
Florida Bar Number

E-mail address

305-807-2912
Phone Number

Facsimile Number

14912 SW 104th St #47
Street Address

Miami, FL 33196-3374
City, State, Zip Code

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS *RAYMOND MOCTEZUMA JR* **DEFENDANTS** *PATRICK R. DONAHOE PMG, U.S.P.S*

(b) County of Residence of First Listed Plaintiff *(EXCEPT IN U.S. PLAINTIFF CASES)* County of Residence of First Listed Defendant *(IN U.S. PLAINTIFF CASES ONLY)*
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys *(If Known)*

FILED by AS D.C.
FEB 14 2014
 STEVEN M. LARIMORE
 CLERK U.S. DIST. CT.
 S. D. of FLA. - MIAMI
(Place an "X" in One Box for Plaintiff and One Box for Defendant)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)* **III. CITIZENSHIP OF PRINCIPAL PARTIES** *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>	Citizen of This State	<input type="checkbox"/> 1 PTF	<input type="checkbox"/> 1 DEF	<input type="checkbox"/> 1 PTF	<input type="checkbox"/> 4 DEF	<input type="checkbox"/> 4 DEF
<input checked="" type="checkbox"/> 2 U.S. Government Defendant <i>(Excl. Veterans)</i>	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	Citizen of Another State	<input type="checkbox"/> 2 PTF	<input type="checkbox"/> 2 DEF	<input type="checkbox"/> 2 PTF	<input type="checkbox"/> 5 DEF	<input type="checkbox"/> 5 DEF
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 PTF	<input type="checkbox"/> 3 DEF	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6 DEF	<input type="checkbox"/> 6 DEF

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <i>(Excl. Veterans)</i> <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input checked="" type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Re-filed (See VI below)	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district <i>(specify)</i>	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	<input type="checkbox"/> 8 Remanded from Appellate Court
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VI. RELATED/ RE-FILED CASE(S) *(See instructions):* a) Re-filed Case YES NO b) Related Cases YES NO
 JUDGE _____ DOCKET NUMBER _____

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause *(Do not cite jurisdictional statutes unless diversity):*
 LENGTH OF TRIAL via _____ days estimated *(for both sides to try entire case)*

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
 DATE *2/14/14* SIGNATURE OF ATTORNEY OF RECORD *Ray A. Moctezuma JR*

FOR OFFICE USE ONLY
 RECEIPT # _____ AMOUNT _____ IFP *Yes* JUDGE _____ MAG JUDGE _____

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 14-cv-20562-Williams/Turnoff

**The attached hand-written
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SUPPLEMENTAL
PAPER FILE**

AO 240 (Rev. 07/10) Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

FILED by A33 D.C.
FEB 14 2014
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

RAYmond Moctezuma JR
Plaintiff/Petitioner

Patrick R. Donahoe PMG, U.S.P.S
Defendant/Respondent

Civil Action No.

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS
(Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at:

~~If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.~~

2. *If not incarcerated.* If I am employed, my employer's name and address are:

ALLIED Barton Security Services
7300 NW 19th St Miami, FL 33126

My gross pay or wages are: \$ 480.00, and my take-home pay or wages are: \$ 399.00 per
(specify pay period) 2 weeks.

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

- (a) Business, profession, or other self-employment Yes No
- (b) Rent payments, interest, or dividends Yes No
- (c) Pension, annuity, or life insurance payments Yes No
- (d) Disability, or worker's compensation payments Yes No
- (e) Gifts, or inheritances Yes No
- (f) Any other sources Yes No

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

AO 240 (Rev. 07/10) Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)

4. Amount of money that I have in cash or in a checking or savings account: \$ 0.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (describe the property and its approximate value):

NONE

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (describe and provide the amount of the monthly expense):

- ① mortgage \$1800.00 monthly
- ② Light 140.00 "
- ③ Phone 170.00 "
- ④ water 100.00 qtrly
- ⑤ cable 100.00 monthly
- ⑥ ASSOCIATION FEES (HOA) \$325.00 monthly

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

JOAnne moctezuma wife
 Ramon moctezuma FATHER
 maria moctezuma mother
 RAYMOND MOCTEZUMA SON

} 100 %

8. Any debts or financial obligations (describe the amounts owed and to whom they are payable):

IRS = owe \$10,000 plus
 I pay \$50.00 monthly per agreement

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: 2/14/14

Raymond Moctezuma Jr
Applicant's signature

Raymond MOCTEZUMA Jr.
Printed name

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 14-cv-20562-Williams/Turnoff

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UNITED STATES DISTRICT COURT
Southern District of Florida

Case Number: _____

RAYMOND MOCTEZUMA JR.

Plaintiff(s)

v.

PATRICK R. DONAHUE
POST MASTER General
U.S. POSTAL Service
SOUTH EAST AREA

Defendant(s)

FILED by AJS D.C.
FEB 14 2014
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

Right to Request Counsel
(TITLE OF DOCUMENT)

I, Raymond Moctezuma Jr. plaintiff or defendant, in the above styled cause,

I Am told by the U.S. Equal Employment opportunity Commission that I need to take my case to court, But I need a Lawyer. I do not know about these Legal things. They say I can get an ATTORNEY under Title VII of the civil Rights ACT of 1964, as Amended.

I Respectfully request and need an ATTORNEY to help me, and I do not have money for that. I Am Struggling to survive and I need to return to work. Please Help.

(over)

(Rev. 10/2002) General Document

I ALSO respectfully request to be represented by a counsel of the courts choosing. Again this request are made due to my current financial situation. Thank you!

Certificate of Service

I, Raymond Moeteruma SN, certify that on this date 2-14-14 a true copy of the foregoing document was mailed to: U.S. Postal Service
name(s) and address(es)

(South east) NEEDS - Appeals U.S. Postal Service P.O. Box 21979 TAMPA, FL 33622-1979

By: Raymond Moeteruma SN
Printed or typed name of Filer

[Signature]
Signature of Filer

pro se
Florida Bar Number

E-mail address

305-807-2912
Phone Number

Facsimile Number

14912 SW 104th St #47
Street Address

Miami, FL 33196-3374
City, State, Zip Code

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 14–20562–CIV–WILLIAMS

RAYMOND MOCTEZUMA, JR.,

Plaintiff,

vs.

POSTMASTER GENERAL and
U.S. POSTAL SERVICE,

Defendants.

_____ /

ORDER

THIS MATTER is before the Court upon a *sua sponte* review of the record. Plaintiff has not paid the applicable filing fee and therefore the screening provisions of 28 U.S.C. § 1915(e) are applicable. Pursuant to that statute, courts are permitted to dismiss a suit “any time [] the court determines that . . . (B) the action or appeal (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2).

The Court finds that Plaintiff has failed to state a claim even under the relaxed pleading standard afforded to *pro se* litigants. See *Abele v. Tolbert*, 130 F. App’x 342, 343 (11th Cir. 2005). According to the Complaint, this action is for alleged violations of Title VII of the Civil Rights Act. However, the allegations are unclear. Plaintiff claims that he “never had serious problems at work but they discriminated me and kept me out of work.” [D.E. 1 at 2]. But Plaintiff fails to provide any specifics regarding what

happened, when it happened or how it constituted discrimination. Nor does Plaintiff identify any similarly situated employee that was treated differently from him. *Holifield v. Reno*, 115 F.3d 1555, 1562 (11th Cir. 1997) (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802-04 (1973)). Moreover, Plaintiff's request for relief is ambiguous—Plaintiff first asserts that he would like to have a judge “give me back my job / return me to work,” but then notes that he is “willing to settle out of court,” suggesting that he expects some kind of money damages. The Complaint is therefore deficient under Federal Rule of Civil Procedure 8(a), even construing it most liberally. See *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998); *Olsen v. Lane*, 832 F. Supp. 1525, 1527 (M.D. Fla. 1993) (“[T]he *pro se* litigant must still meet minimal pleading standards.”).

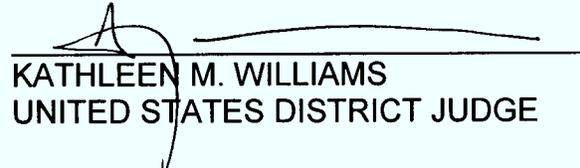
Accordingly, it is **ORDERED AND ADJUDGED** as follows:

- (1) Plaintiff's Complaint [D.E. 1] is **DISMISSED**.
- (2) Plaintiff's Motion to Proceed in Forma Pauperis [D.E. 3] is **DENIED AS MOOT**. Plaintiff may refile his motion if he chooses to amend his complaint.
- (3) Plaintiff's Motion for Appointment of Counsel [D.E. 4] is **DENIED**. There is no constitutional right to counsel in a civil proceeding.
- (4) Plaintiff shall be given an opportunity to amend his Complaint. Plaintiff shall separate his claims into counts, with appropriate headings indicating the cause of action. See, e.g., *Lussi v. Design-Build & Eng'g, Inc.*, No. 09-23446, 2010 WL 1571158, at *1-2 (S.D. Fla. Apr. 20, 2010) (requiring plaintiff to replead multiple claims asserted as a single cause of action);

FED. R. CIV. P. 10(b). The Court further directs that below each heading, Plaintiff shall assert, expressly or inferentially, the elements applicable to that cause of action, the facts giving rise to the claim, and any relevant statutes.¹ Plaintiff shall number the paragraphs of his complaint sequentially. See Fed. R. Civ. P. 10(b). Finally, Plaintiff shall indicate the relief requested in his amended complaint.

- (5) Plaintiff must file his amended complaint by no later than **5:00 p.m.** on Monday, **April 7, 2014**. Failure to comply with the Court's Order may result in dismissal of this case.

DONE AND ORDERED in Chambers in Miami, Florida, this 7th day of March, 2014.


KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE

cc: Raymond Moctezuma, Jr.
Unit # 47
14912 SW 104th Street
Miami, FL 33196-2912

¹ In order to establish a *prima facie* case of racial discrimination under Title VII, Plaintiff must plead with sufficient factual specificity that: (1) he belongs to a racial minority; (2) he was subjected to adverse job action; (3) his employer treated similarly situated employees outside his classification more favorably; and (4) he was qualified to do the job. *Holifield v. Reno*, 115 F.3d 1555, 1562 (11th Cir. 1997) (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802-04 (1973)).