

OFFICE OF COMPLIANCE
LA 200, John Adams Building, 110 Second Street, S.E.
Washington, DC 20540-1999

THOMAS J. DEVLIN ,)	
)	
Appellant,)	
)	
v.)	Case No. 01-AC-373(AG, CV)
)	Date: June 17, 2004
OFFICE OF THE ARCHITECT)	
OF THE CAPITOL)	
)	
Appellee .)	
)	

Before the Board of Directors: Susan S. Robfogel, Chair; Barbara L. Camens, Alan V. Friedman; Roberta L. Holzwarth; Barbara Childs Wallace, Members.

DECISION OF THE BOARD OF DIRECTORS

On November 18, 2003, Hearing Officer Sylvia Bacon issued the attached Decision and Judgment. The Hearing Officer concluded that the Respondent had not engaged in age discrimination in not promoting the Complainant from his position of Building Inspector, pay grade GS-08.

The Board has considered the decision in light of the record, the petition for review, and the parties' briefs. The Board finds that the Hearing Officer's conclusions are supported by substantial evidence and affirms the Hearing Officer's determination that the record does not establish proscribed discrimination. See *Office of the Architect of the Capitol v. Office of Compliance, et al.*, 2004 U.S. App. LEXIS 4541 (Fed. Cir. 03/11/2004); *Francisca Laguna v. Office of the Architect of the Capitol*, Case No. 02-AC-54(CV,FL) (Board of Directors Decision, dated April 8, 2004). We rely upon the Hearing Officer's finding and conclusion that the Appellant did not prove that his age motivated the Appellee's failure to promote him. In so holding, we do not and need not rule on the alternate finding that the Appellant's non-promotion was not an actionable adverse action. See *Francisca Laguna v. Office of the Architect of the Capitol, supra*.

We are satisfied that the Hearing Officer applied the correct legal standards in analyzing this case; although she did not cite the case law manifesting that controlling discrimination proof paradigm that guided her analysis . We do not agree with the Appellant that the decision is independently deficient for its failure to cite case law. “[I]t is the validity of the judgment, not the quality of any opinion supporting it, that has legal significance, and the court’s failure to cite any cases has no relevance to whether the court reached the correct legal result.” *James Constant v. United States*, 929 F.2d 654, at 657 (Fed Cir. 1991).

ORDER

Pursuant to Section 406(e) of the Congressional Accountability Act and Section 8.01(d) of the Office’s Procedural Rules, the Board affirms the Hearing Officer’s merits determination of no discrimination in this matter.

It is so ordered

Issued, Washington, D.C. : June 17, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of June, 2004, I delivered a copy of this Decision of the Board of Directors to the following parties by the below identified means:

First-Class Mail Postage-Prepaid

Jeffrey H. Leib, Esq.
Attorney at Law
5104 34th Street, N.W.
Washington, D.C. 20008

Office of the Architect of the Capitol
c/o John Clifford and Peter Butcher, Esqs.
1620 L. Street, N.W., Suite 625
Washington, DC 20036-5631

**First-Class Mail Postage-Prepaid,
& Facsimile Mail (w/o Hearing Officer Decision)**

Peggy Tyler, Esq.
Office of Architect of the Capitol
Office of Employment Counsel
Ford House Building, Room H2-202
Washington, D.C. 20515

Kisha L. Harley
Office of Compliance