

United States Court of Appeals
For the Eighth Circuit

No. 23-3031

Elizabeth J. Ziegler, an individual; Nichole L. Dietel

Plaintiffs - Appellants

v.

3M Company

Defendant - Appellee

Appeal from United States District Court
for the District of Minnesota

Submitted: May 7, 2024

Filed: May 28, 2024

[Unpublished]

Before COLLOTON, Chief Judge, SHEPHERD and STRAS, Circuit Judges.

PER CURIAM.

Elizabeth Ziegler and Nichole Dietel sued 3M, their employer, for pushing them to get vaccinated. The district court¹ dismissed on multiple grounds: filing too

¹The Honorable David S. Doty, United States District Judge for the District of Minnesota.

late, failing to exhaust, and not stating a claim. They argue on appeal that they *have* stated a claim, but that still allows us to affirm on one of the other grounds.

One path is particularly clear. The plaintiffs’ complaint raises two claims, the first under Title VII and another under the Minnesota Human Rights Act, both of which set a filing deadline. *See* 42 U.S.C. § 2000e-5(e)(1) (300 days); Minn. Stat. § 363A.28, subd. 3 (one year). The plaintiffs did not file in time under either one, so the district court dismissed the case. *See Hutson v. Wells Dairy, Inc.*, 578 F.3d 823, 825–27 (8th Cir. 2009) (affirming the dismissal of an untimely Title VII claim).

The plaintiffs have waived any argument otherwise by failing to brief the issue on appeal. *See Far E. Aluminium Works Co. v. Viracon, Inc.*, 27 F.4th 1361, 1367 n.2 (8th Cir. 2022) (“Claims not raised in an opening brief are deemed waived.” (citation omitted)). In these circumstances, we affirm on this “independent ground[.]” *United States v. May*, 70 F.4th 1064, 1074 (8th Cir. 2023); *see Rivero v. Bd. of Regents of Univ. of N.M.*, 950 F.3d 754, 763 (10th Cir. 2020) (“If the district court states multiple alternative grounds for its ruling and the appellant does not challenge all those grounds in the opening brief, then we may affirm the ruling.”).
