

or BIA overlooked, and cites no evidence that compels a conclusion contrary to the one they reached. Instead, she argues that the Chinese government has imputed a political opinion to her from the mere fact that she tried to help her father “get out of the government’s persecution” and “fought” with the prison official. (Petr.’s Br. at 15.) She relies for that proposition on *Chavarria v. Gonzalez*, 446 F.3d 508 (3d Cir.2006), but that case is inapposite.

In *Chavarria*, we held that a political opinion had been imputed to an otherwise apolitical individual because: (1) he came to the aid of women whom members of a paramilitary group had attacked and who turned out to be members of a political organization opposed to the government, *see id.* at 513, 518; (2) the same attackers later surveilled him at his home, *see id.* at 518–19; and (3) he was attacked and threatened with death, with the comment “[w]e are going to leave you alone today, but if we ever catch you again you won’t live to talk about it,” *id.* at 519. Thus, there was no indication that the petitioner in *Chavarria* was surveilled and attacked for any reason other than the assistance he rendered to people who turned out to be political dissidents.

In this case, by contrast, there is no evidence that Ren was assaulted or that authorities are seeking her because the Chinese government imputes her father’s political opinion to her. Ren testified that, unlike her father, she never took part in the villagers’ protest against the developer’s actions. (A.144–45.) She did not testify that she expressed any political opinion during her visit to the police station or to anything else suggesting that the attempted assault was politically motivated. (A.145–46.) To the contrary, she testified that, when the prison official closed the door behind her, she asked him what he was doing and “he said a man and a woman inside a room. What, what do you

think.” (A.146.) Moreover, she testified that, when authorities sought her at her home, they told her mother that they did so “because I had intention to bribe official, and, also, attack official.” (A.147.) This testimony constitutes substantial evidence in support of the IJ’s and BIA’s conclusions that Ren neither suffered nor faces mistreatment on account of any political opinion the Chinese government imputes to her, and our review of the record confirms that Ren presented no evidence that compels a contrary conclusion. For that reason, we may not disturb the denial of her applications for asylum or statutory withholding of removal.

Finally, Ren challenges the IJ’s and BIA’s conclusion that she failed to show it more likely than not that she would be tortured on return to China. *See Gomez-Zuluaga*, 527 F.3d at 349. Once again, however, Ren cites no evidence of record that compels a contrary conclusion, and our review of the record confirms that there is none. Accordingly, we will deny her petition for review.



*This case was not selected for publication
in the Federal Reporter*
NOT PRECEDENTIAL

Bruce MARTIN, Appellant

v.

**POWERMATIC, INC.; Jet Equipment
and Tools, Inc.**

No. 08–2745.

United States Court of Appeals,
Third Circuit.

Submitted Under Third Circuit
LAR 34.1(a) Dec. 3, 2009.

Filed Dec. 30, 2009.

Background: Worker that sustained injuries to his left hand while operating a saw

at his place of employment brought action against corporate purchaser of saw manufacturer's assets on a theory of successor liability. The District Court of the Virgin Islands, Harvey Bartle, III, J., 2008 WL 2329642, granted corporation's motion for summary judgment. Worker appealed.

Holding: The Court of Appeals, Nygaard, Circuit Judge, held that purchaser was not liable for product liability claims under a theory of successor liability.

Affirmed.

Corporations ⇨445.1

Corporate purchaser of assets of corporation filing for bankruptcy under Chapter 11 was not liable under a theory of successor liability for product liability claims against debtor corporation, where the asset purchase agreement expressly disclaimed all product liability claims against debtor corporation for products sold before the closing date of the agreement.

On Appeal from the District Court of the Virgin Islands (D.C. Civil No. 1-01-cv-00137), District Judge: The Honorable Harvey Bartle, III.

Ronald E. Russell, Esq., Kingshill, St. Croix, VI, for Appellant.

James L. Hymes, III, Law Offices of James L. Hymes, III, St. Thomas, VI, Joshua D. Lee, Esq., Schiff Hardin, Chicago, IL, for Defendant.

Before: McKEE, FUENTES, and NYGAARD, Circuit Judges.

OPINION OF THE COURT

NYGAARD, Circuit Judge.

Because our opinion is wholly without precedential value, and because the parties and the District Court are familiar with its

operative facts, we offer only an abbreviated recitation to explain why we will affirm the order of the District Court.

Martin sustained severe injuries to his left hand while operating a saw at his place of employment. The saw was at least fifty years old and had been sold by the original buyer to the previous owner of the company that employed Martin. The saw did not have a safety guard on the blade. Martin claims that the condition of the saw caused his injuries, making Powermatic Corporation strictly liable, negligent for failure to warn, or in breach of an express warranty or implied warranty of merchantability.

Generally, the sale or transfer of assets from one company to another is not a legal basis for asserting successor liability against the purchaser for the torts of the transferor. *Polius v. Clark Equipment Co.*, 802 F.2d 75, 77 (3d Cir.1986). The District Court correctly concluded that ownership of the assets of the Powermatic Division was transferred to JET Equipment and Tools, Inc. through an asset purchase agreement with DeVlieg-Bullard, Inc., during the time that DeVlieg-Bullard was in the midst of reorganization under Chapter 11 of the Bankruptcy Code. Moreover, we agree that there is no record evidence that Powermatic fell within any of the exceptions to the general rule of successor nonliability that we describe in *Polius*. The asset purchase agreement expressly disclaimed all product liability claims against the Powermatic Division of DeVlieg-Bullard, Inc., for products sold before the closing date of the agreement. We also agree that the evidence does not support a *de facto* merger finding.

With respect to the implied warranty claims, Martin essentially challenges JET's argument before the District Court that an implied warranty claim cannot be raised

where strict liability is not actionable. However, the District Court's decision was not based upon this legal argument. Instead, the District Court dismissed this claim on the basis that implied warranties were expressly and conspicuously excluded in the operating instructions manual of the machine in question. Martin's appeal does not dispute this. For this reason, we must conclude that the District Court properly dismissed this claim.



*This case was not selected for publication
in the Federal Reporter*
NOT PRECEDENTIAL

Elizabeth C. DEMPSEY, Appellant

v.

**State of DELAWARE DEPARTMENT
OF PUBLIC SAFETY.**

No. 08-4406.

United States Court of Appeals,
Third Circuit.

Submitted Under Third Circuit

LAR 34.1(a) Sept. 30, 2009.

Filed Dec. 30, 2009.

Background: Female state trooper sued her employer, the Delaware Department of Public Safety (DPS), alleging that it violated Title VII by intentionally discriminating against her on the basis of gender by disciplining her more harshly than male troopers for similar misconduct. DPS moved for summary judgment. The United States District Court for the District of Delaware, Sue L. Robinson, J., granted

summary judgment in favor of DPS, and the trooper appealed.

Holding: The Court of Appeals, Chagares, Circuit Judge, held that the trooper waived her pretext argument by failing to raise it below.

Affirmed

Federal Courts 614

Female state trooper failed to argue before the District Court that the Delaware Department of Public Safety's (DPS) articulated legitimate, nondiscriminatory reason for her discipline was a pretext for discrimination, and thus waived that argument on appeal in her Title VII action. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

On Appeal From the United States District Court for the District of Delaware (Civ. No. 1:06-cv-00456), District Judge: Honorable Sue L. Robinson.

Jeffrey K. Martin, Esq., Martin & Associates, Wilmington, DE, for Appellant.

Judy O. Hodas, Esq., Jennifer D. Oliva, Esq., Department of Justice, Wilmington, DE, for State of Delaware Department of Public Safety.

Before: MCKEE, CHAGARES, and NYGAARD, Circuit Judges.

OPINION OF THE COURT

CHAGARES, Circuit Judge.

Elizabeth Dempsey filed this lawsuit under Title VII of the Civil Rights Act, 42 U.S.C. § 2000e et seq., ("Title VII") against her employer, Delaware Department of Public Safety (DPS), alleging that DPS discriminated against her on the basis of gender.¹ Dempsey asserted that

1. Dempsey also alleged that DPS breached

the covenant of good faith and fair dealing.

