

**IN THE UNITED STATES COURT OF APPEALS**  
**FOR THE FIFTH CIRCUIT**

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m 99-40771

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FRANCIS N. TERRELL,

Plaintiff-Appellee,

VERSUS

UNIVERSITY OF NORTH TEXAS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
(4:97-CV-201)

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September 1, 2000

Before SMITH and DENNIS, Circuit  
Judges, and ROETTGER, District Judge.\*

PER CURIAM:\*\*

The University of North Texas appeals a

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\* District Judge of the Southern District of Florida, sitting by designation.

\*\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

judgment on a jury verdict in this title VII race discrimination employment case brought by Francis Terrell. We conclude, first, that the notice of appeal was timely, so we do have appellate jurisdiction.

We have examined the briefs and pertinent portions of the record. We find no reversible error in any of the actions taken by the district court.

Specifically, we conclude that the evidence was sufficient for the jury to find race discrimination. Regarding the sufficiency of the evidence to establish mental anguish, the issue

was waived by failure to object to the jury submission. There was no error in the submission regarding motivating factor. Moreover, the defendant failed to request an instruction on mixed motive, so that issue is waived.

AFFIRMED.