

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

United States Court of Appeals  
Fifth Circuit

**FILED**

July 28, 2010

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 09-31187

Summary Calendar  
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LEROY HUBERT,

Plaintiff-Appellant,

versus

CITY OF BATON ROUGE / PARISH OF EAST BATON ROUGE,  
DEPARTMENT OF PUBLIC WORK,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
No. 3:08-CV-515  
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Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:\*

Leroy Hubert sued his employer, the City of Baton Rouge, under title VII

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

of the Civil Rights Act of 1964, claiming employment discrimination and retaliation on account of his failure to get a promotion. The district court granted summary judgment for the city.

The district court pointed out that the person who got the promotion was black, as is Hubert. The successful candidate was ranked first by the staff, was more experienced, and was the only candidate who met the educational requirements for the job.

On appeal, Hubert tenders only a five-page brief. The first issue he raises is that there are genuine fact issues that should preclude summary judgment. Hubert does not state what the contested facts are.

The second issue is that the district court abused its discretion in denying Hubert's motion to alter or amend the judgment. That motion, however, was accompanied by an affidavit that did not raise a fact issue with regard to the relative qualifications of Hubert and the successful candidate. Moreover, Hubert filed no opposition to the motion for summary judgment, waiting until it had been granted before filing his affidavit along with the motion to alter or amend.

This appeal is without merit, and the judgment is **AFFIRMED**.