

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 00-20521
Summary Calendar

JAMES E. FISHER,

Plaintiff-Appellant,

VERSUS

WILLIAM J. HENDERSON, ET AL.,

Defendants,

WILLIAM J. HENDERSON, Postmaster General,
United States Postal Service Agency; HOUSTON
AREA LOCAL, AMERICAN POSTAL WORKERS UNION, AFL-CIO,

Defendants-Appellees.

Appeal from the United States District Court
For the Southern District of Texas

(H-99-CV-2455)

March 21, 2001

Before DAVIS, JONES, and DeMOSS, Circuit Judges.

PER CURIAM:*

James E. Fisher (Fisher) was employed by the United States

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Postal Service as a truck driver assigned to the main post office in Houston, Texas. As a truck driver, Fisher was in a safety-sensitive position subject to random drug testing pursuant to federal law and the Department of Transportation regulations. After Fisher tested positive for drug use in June 1995, he was taken off the clock and referred to an employee assistance program counselor. After finishing the counseling program, Fisher entered into a Last Chance Agreement with the Post Office Department and returned to work. In November 1995, Fisher again tested positive for cocaine and he was discharged. Fisher brought suit against William J. Henderson, Postmaster General of the United States, and against the Houston Chapter of the American Postal Workers Union (defendants). Defendants moved for summary judgment and the United States District Court (Melinda J. Harmon, presiding) granted summary judgment for both defendants. Fisher appeals.

We have carefully reviewed the briefs, the record excerpts, and relevant portions of the record itself. For the reasons stated by the district judge in her 32-page Memorandum and Order entered May 23, 2000, we affirm the grant of summary judgment in favor of defendants.

AFFIRMED.