

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 00-50259

BEATRICE ALVAREZ, Etc.; ET AL.,

Plaintiffs,

BEATRICE ALVAREZ, Individually and on behalf of the class of all Hispanic employees, past, present and future denied promotion to General Schedule Positions grade GS-09 and above on the basis of national origin, sex, and/or age; EMILIO CASTRO, Individually and on behalf of the class of all Hispanic employees, past, present and future denied promotion to General Schedule Positions grade GS-09 and above on the basis of national origin, sex, and/or age; ALICIA HERNANDEZ, Individually and on behalf of the class of all Hispanic employees, past, present and future denied promotion to General Schedule Positions grade GS-09 and above on the basis of national origin, sex, and/or age; LUIS P HERNANDEZ, Individually and on behalf of the class of all Hispanic employees, past, present and future denied promotion to General Schedule Positions grade GS-09 and above on the basis of national origin, sex, and/or age; MARY MONTEZ, Individually and on behalf of the class of all Hispanic employees, past, present and future denied promotion to General Schedule Positions grade GS-09 and above on the basis of national origin, sex, and/or age; MANUEL MUNOZ, JR, Individually and on behalf of the class of all Hispanic employees, past, present and future denied promotion to General Schedule Positions grade GS-09 and above on the basis of national origin, sex, and/or age; GUADALUPE RODRIGUEZ, Individually and on behalf of the class of all Hispanic employees, past, present and future denied promotion to General Schedule Positions grade GS-09 and above on the basis of national origin, sex, and/or age; ADOLPH VALADEZ, Individually and on behalf of the class of all Hispanic employees, past, present and future denied promotion to General Schedule Positions grade GS-09 and above on the basis of national origin, sex, and/or age;

Plaintiffs - Appellants

MICHAEL GALVAN, JR

Appellant

v.

F WHITTEN PETERS, Secretary of the United States Department
of the Air Force

Defendant - Appellee

Appeal from the United States District Court
For the Western District of Texas
SA-96-CV-1167-FB

May 15, 2001

Before DAVIS, WIENER and STEWART, Circuit Judges.

PER CURIAM:*

The only two significant issues in this appeal are: (1) whether the district court erred in refusing to certify a class; and (2) whether the district court erred in dismissing the individual claims. After carefully reviewing the record and considering the briefs and arguments of the parties, we conclude that the district court did not err in either respect.

The district court did not err in concluding that the plaintiffs failed to establish the four requirements for class certification. Plaintiffs clearly failed to show that the class representatives adequately represented the class. Three of the class representatives failed to appear and testify at the

*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.

certification hearing or submit evidence. The plaintiff's expert witness, Dr. Lewis, testified that he had not been provided the necessary funds or information to perform an adequate statistical analysis of the data required to establish a prima facie disparate impact case.

We also find no error in the district court's order dismissing the individual plaintiff's claims. The only significant issue plaintiff raises in this respect is that plaintiffs presented claims that were continuing violations which extended the deadlines for action required under the statute. Appellants argue in effect that the defendant perpetuated the effects of discrimination which was otherwise time barred and that this conduct constituted a new violation of Title VII that could be sued upon. This argument is foreclosed by Trevino v. Celanese Corporation, 701 F.2d 397, 403 (5th Cir. 1983).

We have also considered the district court's rulings on various discovery motions challenged by appellants and find no abuse of discretion in the court's rulings.

AFFIRMED.