

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

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No. 01-40233  
Summary Calendar

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BROWN FREIGHT SYSTEMS, INC.,

Plaintiff-Appellant,

versus

TEXACO, INC.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. B-99-CV-120  
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October 17, 2001

Before DAVIS, BENAVIDES and STEWART, Circuit Judges:

PER CURIAM:\*

Brown Freight Systems, Inc., (BFS), appeals from the district court's decision granting summary judgment to Texaco, Inc., in BFS's discrimination claim brought pursuant to 42 U.S.C. § 1981. Although BFS established that it was a minority-owned business, it failed to establish a prima facie case of discrimination because there was no genuine issue of material fact whether the company was *qualified* for an *available* contract with Texaco. See LaPierre v. Benson Nissan, Inc., 86 F.3d 444, 448 (5th Cir. 1996). Accordingly, the district court did not err in granting Texaco summary judgment on BFS's § 1981 claim, and the court's decision is AFFIRMED. See McDonnell-Douglas Corp. v. Green, 411 U.S. 792, 801-02 (1973).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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