

FILED

September 16, 2003

Charles R. Fulbruge III
Clerk

In the
United States Court of Appeals
for the Fifth Circuit

m 02-30960

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff-Counter Defendant-
Appellee-Cross-Appellant,

VERSUS

K&B LOUISIANA CORPORATION,
DOING BUSINESS AS RITE AID CORPORATION,

Defendant-Counter Claimant-
Appellant-Cross-Appellee.

Appeals from the United States District Court
for the Western District of Louisiana
m 00-CV-2238

Before JOLLY, SMITH, and
EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The EEOC sued, alleging that K&B Louisiana Corporation engaged in unlawful discrimination for failing to rehire Johnny Williams on the basis of her sex. After a bench trial, the court ruled that K&B had engaged in an unlawful employment practice, refused injunctive relief, and ordered each side to bear its own costs and attorney's fees. K&B appeals on various grounds, including its assertion that there was no direct evidence of discrimination;

K&B also seeks fees and costs. The EEOC cross-appeals the decision not to award injunctive relief.

We have read the briefs and pertinent portions of the record and have heard the arguments of counsel, and have consulted the applicable caselaw. We find no reversible error. There was certainly direct evidence of sex-based discrimination, including an admission by K&B's manager that he preferred to hire men for a particular post. Consequently, the EEOC did not have to prove that Williams was qualified. The district court was well within its discretion in declining injunctive relief. The court's refusal to shift costs or attorneys fees is a fair resolution of this matter, which badly needs to be put to rest.

The judgment is AFFIRMED.