

June 24, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 04-30885

LERROY GEORGE,

Plaintiff - Appellant,

versus

HONEYWELL INTERNATIONAL, INC.,

Defendant - Appellee.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:03-CV-189-B-M3

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

We have carefully studied the record and the briefs and have heard oral argument in this case. We acknowledge that, when all of the fine points of the evidence are analyzed, this case is very close as to whether George has demonstrated a triable case of retaliation and race discrimination concerning the two promotions at issue. We further acknowledge that Honeywell has demonstrated racial sensitivity in response to some of George's complaints. Still, our careful consideration of the entire record in this case

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

leaves us with the impression that the case is inappropriate for summary judgment.

In sum, George has introduced evidence that he was a well-known and inveterate protestor of racial discrimination at the plant; that some of the decision-makers at the Honeywell plant had demonstrated racial bias; that the plant manager disapproved of George's complaints of race discrimination; that the knowledge of George's earlier complaints can be imputed to the committee; and that George was clearly qualified for the back-up operator position. This evidence leads us to conclude that this case should be tried to a fact-finder. Of course, the fact-finder may reject the evidence to which we have referred because there is evidence adduced by Honeywell that tends to refute much of it. But on the other hand, the jury may accept such evidence and make the nexus that George has proved his claims of unlawful denial of the promotions at issue. Accordingly, we VACATE the district court's grant of summary judgment to Honeywell and REMAND this case for further proceedings.

VACATED and REMANDED.