

May 8, 2006

Charles R. Fulbruge III
Clerk

**UNITED STATES COURT OF APPEALS
For the Fifth Circuit**

No. 04-31217

AKESHA SINGLETON; KAWANTA SINGLETON

Plaintiffs - Appellants

VERSUS

RPM PIZZA, INC.

Defendant - Appellee

Appeal from the United States District Court
For the Eastern District of Louisiana
2:03-CV-2219

Before GARWOOD, DAVIS, and GARZA, Circuit Judges.

PER CURIAM:*

Appellants challenge the take nothing judgment rendered against them based upon a jury verdict in favor of the defendants. Appellants raise a number of issues in this appeal none of which have merit:

1. The district court did not err in its jury instruction

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

concerning adverse employment action. In any event, any deficiency in this respect was clearly harmless under the evidence.

2. The district court did not err in allowing the defendant to present an affirmative defense based on Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998), and Faraqher v. City of Boca Raton, 524 U.S. 775 (1998). In any event, the presentation of this defense was irrelevant to the judgment because the jury did not reach this issue and the jury's verdict was not predicated on it.
3. The district court did not err in not requiring the jury to make a separate determination on plaintiffs' claim predicated on constructive discharge independent of their hostile work environment claim. The jury's finding of no hostile work environment necessarily precluded plaintiffs' claims of constructive discharge.
4. The district court did not abuse its discretion in accepting defendant's race-neutral explanations for their peremptory challenges of African-American jurors.
5. Plaintiffs' argument on appeal that a juror was biased before trial was not preserved by proper objection in the trial court and is waived. In any event, no evidence of juror bias was produced.
6. The district court did not abuse its discretion in

precluding plaintiffs from using a 20-year-old conviction to impeach a witness.

7. Finally, the evidence was ample to support the jury verdict.

The district court judgment is therefore affirmed.

AFFIRMED.