

FILED

January 4, 2007

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-20147
Summary Calendar

DEBRA VILLAREAL,

Plaintiff-Appellant,

VERSUS

DUKE ENERGY CORPORATION.

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas

(H-04-2481)

Before DeMOSS, STEWART, and PRADO, Circuit Judges.

PER CURIAM:*

Plaintiff Debra Villareal, a Hispanic woman, appeals the district court's order granting summary judgment on her Title VII claims in favor of her employer, Duke Energy Corporation ("Defendant"). Villareal alleges the Defendant violated Title VII, 42 U.S.C. § 2000e-2, by discriminating against her on the basis of sex and national origin. Villareal claims that she was forced to resign after the Defendant found that she violated its Code of Business Ethics by failing to report a co-worker's misconduct to a

*Pursuant to 5th Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

supervisor. Villareal denies that her actions violated Defendant's Code of Business Ethics, and claims that she was forced to resign while two white employees who engaged in similar conduct were not disciplined.

The district court concluded that Villareal failed to establish a prima facie case of discrimination based on disparate discipline because (1) she could not show that the white employees were treated more favorably under "nearly identical circumstances," see *Mayberry v. Vought Aircraft Co.*, 55 F.3d 1086, 1090 (5th Cir. 1995), and (2) she failed to show that she did not violate the Code of Business Ethics. The district court also found that, even if Villareal had established a prima facie case of discrimination, she failed to rebut Defendant's legitimate non-discriminatory reason for forcing her resignation.

After careful review of the briefs and the record, we agree with the district court that Villareal has failed to present evidence sufficient to establish a prima facie case under Title VII, or raise a genuine issue that she was forced to resign for a reason other than her violation of Defendant's Code of Business Ethics. Accordingly, we affirm.

AFFIRMED.