

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

United States Court of Appeals
Fifth Circuit

FILED

June 24, 2009

No. 08-51067
Summary Calendar

Charles R. Fulbruge III
Clerk

DONALD R THOMAS,

Plaintiff - Appellant

v.

PETE GEREN, Secretary of the Army,

Defendant - Appellee

Appeal from the United States District Court
for the Western District of Texas, Waco
USDC No. 6:07-CV-291

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:*

Donald R. Thomas appeals the district court's grant of summary judgment for the Secretary of the Army. Thomas was a civilian employee of the Army at Fort Hood, Texas. In his complaint, he alleged that he was subjected to a hostile work environment as reprisal for his prior complaints of employment discrimination. Specifically, Thomas complained that he was denied a secret security clearance; he was denied a lateral transfer to a position with the same

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

pay and benefits as the position he held; his supervisor reclassified his position to defeat his complaint of non-selection for the lateral transfer; and his supervisor threatened him with termination if the newly reclassified positions were upgraded. The Department of Defense conducted an investigation of Thomas's complaint. Following a hearing, the Department of the Army issued its decision, finding that Thomas was not the victim of discrimination.

Thomas filed a complaint against the Secretary of the Army in federal district court. The Secretary filed a motion for summary judgment, supported with evidence, including a transcript of the hearing conducted by the Department of Defense EEO Complaint Investigator. Thomas did not respond to or oppose the summary judgment motion. The district court, in a thorough opinion, examined the evidence presented by the Secretary, and concluded that Thomas had failed to present any evidence of an adverse employment action. The district court stated further that Thomas's claims of a hostile work environment based on denial of a security clearance he did not need, failure to be selected for a lateral transfer, the reclassification of his position, and an alleged threat by a supervisor that "someone" would have to be let go if his position were upgraded were nothing more than the problems any employee might face in an office setting. Accordingly, the district court granted summary judgment for the Secretary.

We have reviewed the record and we agree with the district court that Thomas failed to present or point to any evidence that the employment actions he identified, even assuming that they constitute adverse employment actions, were in any way connected to his prior employment discrimination complaints. Because Thomas has failed to demonstrate the existence of a genuine issue of material fact, we AFFIRM the summary judgment, essentially for the reasons stated by the district court.

AFFIRMED.