

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 92-2387

Richard D. Glimes,

Plaintiff-Appellant,

VERSUS

City of Houston, et al.,

Defendants-Appellees.

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

(CA H 88 1883)

March 10, 1993

Before WIENER, BARKSDALE, and DeMOSS, Circuit Judges.

PER CURIAM:*

Background

The appellant, Richard Glimes, was employed as a communications technician in the City of Houston Fire Department.

On October 30, 1986, during a training session taught by his supervisor, Michael McGowen, Glimes shouted accusations and obscenities at McGowen and then threatened him with a hammer, his

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

fist, and a chair. Prior to this incident, Glimes had received a three-day suspension for fighting with another employee. After Glimes threatened him, McGowen recommended to his supervisors, Paul Cline and Dale Everitt, that Glimes be discharged. Cline and Everitt concurred with McGowen's recommendation and forwarded their recommendation to Fire Chief Robert Clayton, who after giving Glimes a pre-termination hearing, recommended to Mayor Whitmire that Glimes be discharged.

After the Mayor discharged Glimes on March 27, 1987, Glimes requested and received a full evidentiary hearing before the city's civil service commission, which upheld the Mayor's discharge. On June 1, 1988, Glimes sued the City of Houston, Mayor Whitmire, Clayton, Everitt, Cline, Nelson, and McGowen, claiming rights under the Fifth and Fourteenth Amendments, and under 42 U.S.C. § 2000e-3(a). Glimes contended that they were liable because they subjected him to disparate treatment in violation of Title VII and because they terminated him in retaliation for his testimony in another employee civil rights suit in violation of Title VII.

Some three years after this suit was filed and after discovery had been completed, the defendants moved for summary judgment and Glimes moved for leave to file an amended complaint. The district court denied his motion to amend and subsequently entered a summary judgment against Glimes in favor of all of the defendants.

We have carefully reviewed the circumstances surrounding Glimes' motion for leave to amend and the order of the district court denying such motion. Since discovery had been completed and

a pretrial order filed, and since Glimes offered no explanation whatsoever for his lateness in seeking to broaden the scope of his law suit, we believe the decision of the trial court to deny the motion to amend was well within the discretion which must necessarily be accorded to trial judges in the control and management of the trial process.

We have likewise reviewed carefully the motions for summary judgment filed by the defendants and the summary judgment evidence and testimony available to the trial judge in ruling on such motions. We concur with the trial judge's determination that no genuine issue of fact was raised by Glimes on his theory of disparate treatment or on his theory that his termination for abusive conduct was a pretext for termination because of his testimony in the earlier law suit.

Accordingly, we AFFIRM the judgments of the trial court.