

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 92-8533

RICHARD A. GIDDENS,

Plaintiff-Appellant,

VERSUS

SHELL OIL COMPANY and JACK TUCCI,

Defendants-Appellees and
Cross-Appellant.

Appeal from the United States District Court
for the Western District of Texas
(M-91-CV-98)

(December 6, 1993)

Before REAVLEY, DAVIS, Circuit Judges, and TRIMBLE,¹ District
Judge.

PER CURIAM:²

Our review of the record and the relevant law in this case
persuades us that the district court correctly entered a take-
nothing judgment against plaintiff, Richard Giddens.

Giddens failed to state a claim for relief under Title VII.
Harassment by a male supervisor against a male subordinate does not

¹ District Judge of the Western District of Louisiana,
sitting by designation.

² 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should not be published.

state a claim under Title VII even though the harassment has sexual overtones. Title VII addresses gender discrimination. Giddens did not allege how his employer treated him differently because he was a male and he produced no evidence at trial tending to prove such facts. The district court, therefore, correctly dismissed Giddens' Title VII action.

Giddens' action for negligent infliction of emotional distress and negligent hiring and supervision are barred by the Texas Workers' Compensation Act.

Giddens' claim for intentional infliction of emotional distress against Shell is precluded by the jury's finding that Tucci's acts were not committed in the course and scope of his employment.

We need not consider Giddens' claim for intentional infliction of emotional distress against Tucci, because Giddens has not complained about the district court's dismissal of his action against Tucci.

For these reasons, we affirm the judgment of the district court.

AFFIRMED.