

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10542
Summary Calendar

THOMAS D. SWITZER,

Plaintiff-Appellant,

VERSUS

TEXAS COMMERCE BANK NATIONAL ASSOCIATION, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(3:93-CV 72-X)

(December 8, 1994)

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:*

Thomas Switzer sued for reverse race discrimination under title VII of the Civil Rights Act of 1964, as amended. The district court granted summary judgment in favor of the employer, Texas Commerce Bank. The court explained its reasons in a memorandum opinion and order entered on May 4, 1994. Finding no

* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

reversible error, we affirm, essentially for the reasons set forth by the district court.

The bank asserts that it fired Switzer, who is white, because of problems with his performance. He also made racially insensitive remarks (including, as the district court put it, "a presumably facetious comment to his supervisory staff that he wanted them to participate in community activities, whether PTA, hospitals, baseball, or the KKK").

The district court concluded that Switzer had not established a prima facie case of reverse discrimination because, under Flanagan v. Aaron E. Henry Community Health Serv. Ctr., 876 F.2d 1231 (5th Cir. 1989), he did not belong to a racial minority within the company, as he was a supervisor and the majority of the bank's supervisors were white. Moreover, the court stated, in the alternative, that even if a prima facie case was presented, the bank had articulated a legitimate, non-discriminatory reason for Switzer's discharge.

As the district court carefully explained, Switzer made no substantial showing of pretext and offered no direct evidence of discrimination. His claim of reverse discrimination is wholly without merit, and the judgment, accordingly, is AFFIRMED.