

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-11027
Summary Calendar

JOHN MAYS,

Plaintiff-Appellant,

VERSUS

DONNA E. SHALALA, Secretary,
Department of Health and Human Services,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
(3:93-CV-873-H)

(April 28, 1995)

Before JONES, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

John Mays appeals an adverse summary judgment on his claims of racial and gender discrimination, and unlawful retaliation, all in violation of Title VII of the Civil Rights Act of 1964. We **AFFIRM**.

I.

Mays, a black male, is employed in the Southwest Regional Office of the Food and Drug Administration, a division of the United States Department of Health and Human Services. When the

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

program reorganized, a new supervisory position was created and was filled by a white female. Mays claims that the decision to place a white female in this position, rather than himself, constituted racial and gender discrimination. Additionally, he contends that his failure to obtain the position was in retaliation for his having filed previously a racial and gender discrimination action against Secretary Shalala's predecessor. (This action had been settled.)

II.

Mays maintains that the district court erred in granting summary judgment, asserting primarily that issues of material fact exist. Having reviewed the parties' briefs and the record, we agree with the district court that Mays has failed to raise any genuine issue of material fact, and that defendants are entitled to judgment as a matter of law. See Fed. R. Civ. P. 56.

III.

For the reasons stated in the district court's detailed, comprehensive, and well-reasoned opinion, the judgment is

AFFIRMED.