

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-11092
Summary Calendar

WILLIE A. BRACKENS,

Plaintiff-Appellant,

versus

TEXAS COMMERCE BANK, Texas NA,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
(3:93-CV-2315-P)

(June 8, 1995)

Before JONES, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

The appellant, Willie A. Brackens, appeals the grant of summary judgment in favor of Texas Commerce Bank (TCB) in this Title VII racial discrimination in hiring case. Finding that appellant has failed to carry her burden of establishing a dispute of material fact, we affirm.

BACKGROUND

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Appellant was employed by First City Bank of Dallas (First City) from 1989 until 1992 when First City failed. In 1993, TCB acquired First City from the FDIC. TCB subsequently solicited applications for permanent employment from former First City employees. Brackens applied for three positions with TCB -- Check Processing Analyst, Senior Secretary in Private Banking, and Account Documentation Analyst. TCB determined that Brackens was not qualified for any of these positions. She was terminated from her temporary employment with TCB on June 25, 1994.

Brackens filed suit against TCB alleging discrimination based upon her race and gender in violation of Title VII, retaliatory discharge based upon an earlier lawsuit she filed against First City, and racial discrimination in violation of section 1981. TCB brought a motion for summary judgment on all causes of action. The district court dismissed Brackens's sex discrimination claim because she failed to exhaust her administrative remedies. The court granted summary judgment in favor of TCB on all other grounds finding that Brackens was not qualified for the positions she applied for, and that she produced no evidence that TCB was aware of the previous lawsuit against First City. Brackens appeals summary judgment only on the Title VII race discrimination cause of action.

DISCUSSION

Summary judgment is proper if the pleadings, discovery materials and affidavits "show that there is no genuine issue as to any material fact and that the moving party is entitled to a

judgment as a matter of law." Fed. R. Civ. Proc. 56(c). Upon such a showing, the burden shifts to the nonmovant to come forward with specific facts showing that there is a genuine issue for trial. Thurman v. Sears, Roebuck & Co., 952 F.2d 128, 131 (5th Cir.), cert. denied, _ U.S. _, 113 S.Ct. 136 (1992).

To prove a prima facie case of racial discrimination, a plaintiff must show: 1) she belongs to a protected class; 2) she applied for and was qualified for the position sought; 3) she was not offered the position despite her qualifications; and 4) the employer offered the position to an individual not in the protected class. McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802, 93 S.Ct. 1817, 1824 (1973). Appellant disputes the district court's conclusion that she was unable to make a prima facie showing that she was qualified for any of the positions applied for.

The first position, Check Processing Manager, required 3-5 years of banking experience, knowledge of certain computer software, and previous experience in an analytical capacity. The initial interview revealed that Brackens had insufficient knowledge of check processing. Further, Brackens indicated her lack of experience in this area by failing to mark the "check processing" category in an Experience Profile submitted to TCB. Brackens does not dispute her lack of experience, but instead contends that check processing experience is not a valid qualification for the position of Check Processing Analyst because it was not specifically listed on the job requisition form. However, Brackens provides no authority for the proposition that every qualification for a

position must appear on a requisition form. We decline to make such a holding. We agree with the district court that TCB is entitled to consider such experience in its personnel selection. Further, TCB established that Brackens's computer skills fell below those necessary for the position.

The second position, Senior Secretary in Private Banking, required the applicant to type 60-65 words per minute and have extensive knowledge of Lotus and Multimate Computer software. Brackens does not dispute that she does not have these qualifications, but argues she is learning the software and knows the basic functions and commands.

The third position, Account Documentation Analyst, required the applicant to have commercial documentation experience and extensive word processing and CRT computer experience. Again, it is undisputed that Brackens lacked the requisite computer knowledge and experience.

Therefore, Brackens has failed to make a prima facie showing that she was qualified for any of the positions she sought.

CONCLUSION

Because Brackens has failed to raise any material factual issue that would entitle her to a trial on the merits, the judgment of the district court is **AFFIRMED**.