

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-30553

DELTA PELLERIN,

Plaintiff-Appellant,

versus

MARTIN MARIETTA MANNED
SPACE SYSTEMS,

Defendant Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana

(CA 93 3150 E)

(June 27, 1995)

Before POLITZ, Chief Judge, EMILIO M. GARZA and STEWART, Circuit Judges.

PER CURIAM:*

Delta Pellerin appeals the adverse grant of summary judgment rejecting her Title VII claims against Martin Marietta Manned Space

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Systems. Finding no error, we affirm.

Background

Pellerin, an African American, was employed by Martin Marietta as a clerical software analyst until laid off in December 1992. She filed a charge with the EEOC alleging racial discrimination; the charge was rejected and Pellerin was given a right-to-sue notice. The instant lawsuit, alleging discrimination based on race, sex, and age, followed. The district court granted summary judgment to Martin Marietta and Pellerin timely appealed.

Analysis

We review the district court's grant of summary judgment de novo.¹ Martin Marietta attests that economic considerations necessitated a reduction in force, and that Pellerin was selected for termination because her performance evaluations were inferior to those of the other two clerical software analysts. Pellerin has produced no evidence whatsoever from which a rational trier of fact could conclude that Martin Marietta's reasons are pretextual, much less that they masked discriminatory motives.²

Further, the district court did not err by proceeding to judgment without requiring additional discovery. Pellerin did not

¹**Agrilectric Power Partners, Ltd. v. General Elec. Co.**, 20 F.3d 663 (5th Cir. 1994).

²**St. Mary's Honor Ctr. v. Hicks**, 113 S.Ct. 2742 (1993); **Texas Dep't of Community Affairs v. Burdine**, 450 U.S. 248 (1981); **Thornbrough v. Columbus and Greenville R.R. Co.**, 760 F.2d 633 (5th Cir. 1985).

timely request a continuance by filing a proper motion explaining why more discovery was needed to oppose the summary judgment motion. She thus failed to comply with Fed.R.Civ.P. 56 (f).³ Even if we construed Pellerin's motion to compel discovery as a Rule 56 (f) motion, she did not demonstrate with "reasonable specificity how the requested discovery pertained to the pending [summary judgment] motion."⁴ Nor do we find an abuse of discretion in the denial of Pellerin's motion to compel, filed after the discovery cut-off date.⁵

Dismissal of Pellerin's age and sex discrimination claims also was proper. Pellerin did not present these claims to the EEOC; she consequently failed to exhaust administrative remedies.⁶ Pellerin's allegation that the EEOC interviewer prevented her from raising the additional grounds of discrimination does not raise a genuine issue of material fact.⁷

³See **Robbins v. Amoco Prod. Co.**, 952 F.2d 901 (5th Cir. 1992); **Int'l Shortstop, Inc. v. Rally's Inc.**, 939 F.2d 1257 (5th Cir. 1991).

⁴**Enplanar, Inc. v. Marsh**, 11 F.3d 1284, 1291 (5th Cir.), cert. denied, 115 S.Ct. 312 (1994)(citing **Int'l Shortstop**). Although Pellerin's motion opposing summary judgment raised the issue of incomplete discovery, it did not do so with the mandated specificity. Id.

⁵**Enplanar.**

⁶42 U.S.C. § 2000e-5(f)(Title VII); 29 U.S.C. § 626 (d)(ADEA).

⁷The district court found that this allegation was contradicted by Pellerin's deposition testimony. Compare **White v. Dallas Indep. Sch. Dist.**, 581 F.2d 556 (5th Cir. 1978); **Albano v. Schering-Plough Corp.**, 912 F.2d 384 (9th Cir. 1990), cert. denied, 498 U.S. 1085 (1991).

The judgment of the district court is AFFIRMED.