

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-20563
Summary Calendar

CHARLES E. ENGLISH,

Plaintiff-Appellant,

versus

MAY DEPARTMENT STORES COMPANY,
doing business as FOLEY'S,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
(CA-H-93-3382)

March 12, 1996

Before DAVIS, BARKSDALE, and DeMOSS, Circuit Judges.

PER CURIAM:*

Charles English pressed federal and state claims. The latter alleged retaliatory discharge for filing a workers' compensation claim. After granting Foley's motion for partial summary judgment on English's federal claims, the district court ruled that it would retain the state law claim pursuant to its supplemental jurisdiction. Only the state law claim is at issue here.

English's motion for partial summary judgment based on res judicata and collateral estoppel was denied before trial. Following a bench trial, the district court rendered findings of

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

fact and conclusions of law from the bench and found for Foley's. The next day, English filed a motion for judgment as a matter of law. The following day, the district court entered final judgment for Foley's.

On appeal, English has not filed a trial transcript. The only issue presented by him concerns the denial of his pretrial motion for partial summary judgment. But, our court will not "review the pretrial denial of a motion for summary judgment where on the basis of a subsequent full trial on the merits final judgment is entered adverse to the movant". ***Black v. J.I. Case Co., Inc.***, 22 F.3d 568, 570 (5th Cir.), *cert denied*, ___ U.S. ___, 115 S. Ct. 579 (1994). If, as here, motions for judgment as a matter of law are made at trial, "the denied motion for summary judgment need not be reviewed, because the `legal' issues determined by the district court are freely reviewable, and the case may be reversed and rendered on that basis". ***Id.*** at 571 n.5.

Accordingly, the judgment is

AFFIRMED.