

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50247
Summary Calendar

PHILIP M. KING,

Plaintiff-Appellant,

versus

CITY OF SAN ANTONIO,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-95-CV-175
- - - - -

December 30, 1996

Before JONES, DeMOSS and PARKER, Circuit Judges.

PER CURIAM:*

Philip M. King appeals from the district court's grant of the City of San Antonio's motion for a judgment as a matter of law. Fed. R. Civ. P. 50. We have reviewed the record and the briefs and AFFIRM the dismissal for essentially the same reasons set forth by the magistrate judge. King v. City of San Antonio, No. SA-95-CA-0175 (W.D. Tex. Mar. 7, 1996). Judgment as a matter of law was proper on King's ADEA claims because no more than a

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

scintilla of evidence supported a finding that the legitimate nondiscriminatory basis offered for not hiring King was a pretext.

AFFIRMED.