

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-60023
Summary Calendar

GERALD MINGO,

Plaintiff-Appellant,

versus

PEARL RIVER VALLEY POWER ASSOCIATION,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
(2:95-CV-346)

August 6, 1996

Before HIGGINBOTHAM, WIENER and BENAVIDES, Circuit Judges.

PER CURIAM*:

Appellant Gerald Mingo ("Mingo") appeals the dismissal of his action brought pursuant to 42 U.S.C. § 1981. The district court found that his action was barred by limitations and additionally that summary judgment should be granted because Mingo failed to establish a *prima facie* case of race discrimination. After considering the briefs and record, we affirm for the following reasons:

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

1. Mingo does not challenge the district court's findings and conclusions with respect to his failure to establish a *prima facie* case.

2. Mingo presented no summary judgment evidence to rebut Appellee's race neutral explanation that Mingo was terminated solely because of his inability to return to work.

3. The district court correctly determined that Mingo's cause of action was time barred. The trial court correctly noted that the alleged discriminatory act was the decision to terminate Mingo's employment. Mingo was well aware of that action more than three years prior to the date he filed his complaint in the district court.

AFFIRMED.