

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-30060
Summary Calendar

NOEL N. DAUTERIVE,

Plaintiff-Appellant,

versus

MAGNOLIA MARKETING COMPANY, INC.,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
(97-CV-233-D)

August 20, 1998

Before KING, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Noel N. Dauterive appeals the adverse summary judgment on his Family Medical Leave Act (FMLA) claim against his former employer, Magnolia Marketing Company, Inc. Dauterive contends there are material fact issues regarding his job performance and whether he was discharged for requesting leave under the FMLA.

The district court concluded that Dauterive could not establish a prima facie case of discrimination because he produced insufficient evidence to create a material fact issue regarding (1) whether there was a causal connection between his request for FMLA

* Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

leave and his termination, and (2) whether he was meeting Magnolia's legitimate expectations. Alternatively, the district court concluded that, even if Dauterive had established such a case, he failed to offer competent evidence to show that Magnolia's articulated reason for discharging him – poor performance – was pretextual, and that its true reason was because Dauterive had requested FMLA leave.

Pursuant to our required *de novo* review of the record, we **AFFIRM** for essentially the reasons stated by the district court. ***Dauterive v. Magnolia Marketing Co., Inc.***, No. 97-0233 (E. D. La. Dec. 15, 1997) (unpublished).

AFFIRMED