

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40734
Summary Calendar

CLEMON H. MILLER,

Plaintiff - Appellant,

v.

SERVICE PAINT CO., 7305 Upriver Road, Corpus Christi, TX
78409,

Defendant - Appellee.

Appeal from the United States District Court
for the Southern District of Texas
(C-96-CV-539)

May 3, 1999

Before EMILIO M. GARZA, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Clemon H. Miller (Miller) appeals from a jury verdict resulting in the dismissal of his claim that his employment with appellee was terminated based on his race.

Miller's sole argument on appeal is that the district court erred in its instruction to the jury. However, the instruction

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that Miller contends should have been given was not proposed to the district court nor did Miller object to the instructions that, in fact, were given to the jury by the district court. By failing to object to the instructions, Miller has not preserved his claim made on appeal. Accordingly, the judgment of the district court is affirmed.

AFFIRMED.