

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 99-50858  
Summary Calendar

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DANNY ZACEK; ALBERT SANDOVAL,

Plaintiffs-Appellants,

VERSUS

NORTH EAST INDEPENDENT SCHOOL DISTRICT,

Defendant-Appellee.

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Appeal from the United States District Court  
For the Western District of Texas  
(SA-98-CV-533-OG)

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March 28, 2000

Before HIGGINBOTHAM, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:\*

Danny Zacek and Albert Sandoval (hereinafter "plaintiffs") sued their employer, North East Independent School District (hereinafter "NEISD") in state district court in Bexar County, Texas, alleging (1) claims for retaliation for whistle blower activities of plaintiffs under chapter 21 of the Texas Labor Code; (2) discrimination because of national origin in violation of Title VII of the 1964 Civil Rights Act; and (3) retaliation for filing

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

claims under Title VII of the Civil Rights Act. NEISD removed the case to the federal district court on grounds of federal question; and after substantial discovery, NEISD moved for summary judgment. The district judge referred the summary judgment motion to the magistrate judge for memorandum and recommendation under 28 U.S.C. § 636(d); and the magistrate judge filed a 26-page memorandum and report recommending that the court grant NEISD's motion for summary judgment because plaintiffs had failed to identify evidence creating a genuine issue of material fact as to an essential element of each of their claims. Plaintiffs filed objections to the magistrate judge's report and the district judge entered an eight-page order accepting the magistrate judge's recommendations. Accordingly, the district court entered a final judgment in favor of NEISD and denying relief to plaintiffs. Plaintiffs timely appealed.

We have carefully reviewed the briefs, the reply brief, the record excerpts, and relevant portions of the summary judgment record. For the reasons stated by the magistrate judge in her memorandum and report which were adopted by the district court in its order filed July 13, 1999, we have concluded that the final judgment entered by the district court on July 13, 1999, should be and the same is hereby

**AFFIRMED.**