

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 93-8013
Summary Calendar

OTIS L. COOKS,

Plaintiff-Appellant,

VERSUS

KENEDY INDEPENDENT SCHOOL DISTRICT,

Defendant-Appellee.

Appeal from the United States District Court
For the Western District of Texas

(SA 91 CV 606)

(September 17, 1993)

Before GARWOOD, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:*

Cooks (a black male) filed a pro-se complaint in federal district court alleging race discrimination under Title 7 of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq. Cooks based his claim of race discrimination upon the fact that he had applied

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

for a janitorial position with the school district and was not selected for one of the four available positions. Prior to trial, Cooks hired counsel to represent him and filed an amended complaint asserting a claim of age discrimination. The school district moved for summary judgment which the district court granted only as to the age discrimination claim. The race discrimination claim was tried before the district court without a jury. At the conclusion of the trial, the trial court in its findings of fact, found that:

- a. [Cooks] has not suffered disparate treatment because of his race.
- b. [the school district's] reasons for not selecting plaintiff were not pretextual [sic];

and made a conclusion of law that, "[Cooks] has not established by a preponderance of the evidence that Defendant was motivated by any racial animosity in selecting the four custodians in 1990."

Cooks timely appealed from the take-nothing judgment entered against him.

After careful review of the briefs, the record excerpts, and pertinent portions of the record, we are satisfied that the trial court's findings of fact were not clearly erroneous; and that the conclusions of law arrived at by the trial court should be affirmed.

Accordingly, we AFFIRM the judgment of the trial court.