

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-60267  
Summary Calendar

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BARBARA L. WILLIAMS,

Plaintiff-Appellant,

VERSUS

ROBERT E. RUBIN,  
Secretary of the Treasury,

and

FRANK GILBERT,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Mississippi  
(1:93-CV-458)

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December 1, 1995

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Barbara Williams, who is black, worked for the Internal Revenue Service and sued for race and sex discrimination, later dropping her sex-based claim. She contends a white woman was

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\* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

given a promotion over her because of race.

The district court conducted a full bench trial and found no discrimination. We find no error in this decision. At trial, Williams was the only witness for the plaintiff. She admitted she knew of no reason she had not received the promotion except that she had received a lower evaluation than did the woman who was promoted. There was absolutely no evidence of racial animus or motive.

Williams claims the district judge should have recused because of a statement he made to the effect that he is audited annually by the Internal Revenue Service and is friends with it. Williams raised this for the first time on appeal, so she has waived the issue. Moreover, the transcript does not contain the statement that Williams claims was made, and the court reporter has confirmed that the record is accurate in this regard.

Williams claims the district court improperly excluded a statement by Williams's manager. There is no showing that the statement even referred to Williams, directly or indirectly. Moreover, the statement does not refer in any way to race. The district court was within its discretion in excluding the statement.

AFFIRMED.