

United States Court of Appeals for the Fifth Circuit

No. 26-30010
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 31, 2026

Lyle W. Cayce
Clerk

CLIFTON J. PAPPION,

Plaintiff—Appellant,

versus

PHILLIPS 66 COMPANY,

Defendant—Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:19-CV-1098

Before DAVIS, STEWART, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Plaintiff-Appellant Clifton J. Pappion brought this Title VII suit against his employer, Defendant-Appellee Phillips 66 Company. He alleges racial discrimination and retaliation arising from a 2018 failure to promote

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 26-30010

and a 2021 disciplinary demotion. The district court granted summary judgment for Phillips on all claims. On de novo review,¹ we AFFIRM.

Pappion, a Black man, was hired by Phillips in 1994 as a utility worker and eventually became a “Top Operator.” In 2018, he applied for a promotion to Shift Team Leader. Pappion argues that Phillips discriminated when it instead selected a non-Black candidate, Greg Miller, for the position.

But even assuming that Pappion presented a prima facie case of discrimination, his claim fails at the pretext stage.² Phillips presented notes and scoring charts from the candidates’ interviews showing that Miller was better qualified for the position than Pappion. The interviewers’ commentary about Miller was uniformly positive, including notes such as “mentored under-dogs,” “big on team contribution and developing people” and “leadership qualities came out in answers.” In contrast, the notes from Pappion’s interview were much less favorable, including “lacked examples of team work,” “desired to be consulted with Q&A only,” and “wants to make friends more so than be a ‘leader.’” Pappion presents nothing to dispute these conclusions.

Instead, Pappion points out that his overall interview score was about 1.5 points “higher” than Miller’s score. Based on this, he argues a reasonable jury could find he was more qualified and infer discrimination. But Phillips

¹ See *Johnson v. PRIDE Indus.*, 7 F.4th 392, 399 (5th Cir. 2021).

² Under the *McDonnell Douglas* framework, a plaintiff can make out a prima facie case of discrimination by showing (1) he is a member of a protected class; (2) he sought and was qualified for a position for which applicants were being sought; (3) he was rejected for the position; and (4) the employer hired a person outside of the plaintiff’s protected class. *Id.* at 406. The burden then shifts to the employer to articulate a legitimate, nondiscriminatory reason for the underlying employment action. *Id.* The plaintiff must then provide adequate evidence to show the employer’s proffered reason is a mere pretext for discrimination. *Id.*

No. 26-30010

presented affidavits from the three interviewers explaining that *lower* numerical scores represented a more favorable interview performance. Pappion offers nothing to refute these sworn statements, which are consistent with the interview notes. Nor does he present any other evidence suggesting Phillips considered race in its decision. Accordingly, summary judgment was proper.³

Pappion also brings a discrimination claim arising from a 2021 disciplinary demotion. While performing clean-up work, Pappion threw two pieces of tin off the side of a 60-foot structure without following safety protocols. He contends that Phillips discriminated against him by demoting him in response to the incident.

This claim is unavailing because Pappion fails to offer evidence of an essential element of a *prima facie* case of discrimination: that he was treated less favorably than a similarly situated employee outside his protected group.⁴ Pappion alleges co-worker Beau Myers was not demoted after he similarly threw debris from a structure. But Phillips presented the affidavits of two of its HR employees, who attested that Myers was not disciplined because, unlike Pappion, he followed safety procedures. Myers used on-the-ground spotters before throwing blankets from a height of ten feet off the ground. Pappion offers nothing to rebut this evidence; nor does he offer another comparator who committed a safety violation like his own.

Alternatively, Pappion argues the 2018 failure to promote and the 2021 discipline were in retaliation for his filing EEO charges in 2013 and

³ See *Lemonia v. Westlake Mgmt. Servs.*, No. 22-30630, 2023 WL 6878915, at *5 (5th Cir. Oct. 18, 2023) (“The detailed interview score sheets, comments, and affidavits from the interviewers were sufficient to meet [the employer’s] burden to show a non-discriminatory reason for failing to promote [Plaintiff].”).

⁴ See *Lee v. Kansas City S. Ry. Co.*, 574 F.3d 253, 259 (5th Cir. 2009).

No. 26-30010

2019, respectively. But the years-long gaps between Pappion's charges and these adverse actions are much too lengthy to give rise to an inference of causation sufficient to survive summary judgment.⁵ And he offers no other evidence to establish a causal link between these events, so summary judgment was proper on the retaliation claims.⁶

Finally, Pappion challenges a litany of discovery rulings and sanctions entered by the magistrate judge. Even assuming that Pappion preserved his various objections to these orders by timely raising them with the district court, we find no abuse of discretion warranting relief on appeal.⁷

AFFIRMED.

⁵ See *Clark Cnty. Sch. Dist. v. Breedon*, 532 U.S. 268, 274 (2001) (“Action taken . . . 20 months later suggests, by itself, no causality at all.”).

⁶ See *Washburn v. Harvey*, 504 F.3d 505, 510 (5th Cir. 2007) (“To establish a *prima facie* case of unlawful retaliation under Title VII, [Plaintiff] must show (1) that he engaged in an activity protected by Title VII, (2) that an adverse employment action occurred, and (3) that a [causal] link existed between the protected activity and the adverse employment action.”).

⁷ See *Wiva v. Royal Dutch Petroleum Co.*, 392 F.3d 812, 817 (5th Cir. 2004) (“We review a district court’s discovery rulings, including the denial of a motion to compel, for abuse of discretion.”); *Smith & Fuller, P.A. v. Cooper Tire & Rubber Co.*, 685 F.3d 486, 488 (5th Cir. 2012) (“A district court’s imposition of sanctions pursuant to Rule 37(b) is reviewed for an abuse of discretion.”).