IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit
FILED
January 31, 2014
Lyle W. Cayce
Clerk

No. 13-30917
Summary Calendar

ALLEN ANCAR, III,

Plaintiff–Appellant,

versus

PORT SHIP SERVICE, INCORPORATED,

Defendant–Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:12-CV-1710

Before JOLLY, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Allen Ancar sued his employer, claiming discriminatory compensation.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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The district court granted the employer's motion for summary judgment. There is no error, so we affirm.

Ancar was a driver who transported river pilots to and from the port. Driving assignments were made on a rotating basis from a tablet on which the name of each pilot was recorded when he called for a ride. Ancar claimed that he frequently was assigned to pilots who did not give a tip or who tipped low amounts and that such assignments were made because of his race.

The district court correctly reasoned as follows:

> Plaintiff fails to point to any case law suggesting that tips, over which Plaintiff admits Defendant had no control, constitute compensation, terms, or privileges of employment under Title VII. Furthermore, Plaintiff does not point to any case law suggesting that all employees are entitled to the same amount in tips in the absence of an agreement with the employer regarding tipping. Additionally, Plaintiff's conclusory allegations that the dispatcher intentionally made driver assignments based on race do not suffice without some supportive and qualifying evidentiary showing to create a material factual dispute.

The summary judgment is AFFIRMED.