

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-60474
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
November 10, 2017
Lyle W. Cayce
Clerk

SHARON BOLTON,

Plaintiff–Appellant,

versus

CITY OF HATTIESBURG,

Defendant–Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
No. 2:17-CV-41

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Sharon Bolton sued her employer, the City of Hattiesburg, for sex, race,

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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and age discrimination because of a promotion that was not offered to her. As explained in a succinct but comprehensive Memorandum Opinion and Order, the district court granted summary judgment for the city and dismissed.

We agree with the district court's analysis. It recognized that although a plaintiff may be relieved of the requirement that she formally applied for a position, she still must show that she expressed interest in it. As the district court explained, "Because Plaintiff never applied to nor communicated any interest in the Crew Supervisor position to any of her superiors, she cannot show that she was qualified for the position she sought because she *never sought* the position" (citing cases). The court further reasoned that even if, *arguendo*, Bolton had established a *prima facie* case, the city offered a legitimate, non-discriminatory reason for its decision not to promote Bolton: the disciplinary actions that had been taken against her. And finally, as the court observed, any claim of race discrimination fails because the person who was promoted was of her race.

AFFIRMED.