

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

United States Court of Appeals
Fifth Circuit

F I L E D

November 10, 2009

No. 09-20143

Charles R. Fulbruge III
Clerk

JOHN ESCOBEDO

Plaintiff-Appellant

v.

TEXAS BOARD OF PARDONS & PAROLES, Texas Department of Criminal
Justice, RISSIE L. OWNES

Defendants-Appellees

Appeal from the United States District Court for the
Southern District of Texas, Houston
4:06-CV-3949

Before GARWOOD, DAVIS and DENNIS, Circuit Judges.

PER CURIAM:*

In this appeal, John Escobedo challenges the district court's dismissal of his employment discrimination and retaliation suit on summary judgment.

After a careful review of the record and consideration of the briefs and oral argument of counsel, we conclude that the district court committed no error.

On the employment discrimination claim in which Escobedo contended that the defendant refused to hire him as a parole commissioner because he was

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Hispanic, the only significant issue is whether plaintiff demonstrated that the non-discriminatory reasons given for the refusal to hire were pretextual. The plaintiff failed to show that the more recent experience and knowledge of current parole rules, regulations and practices by the candidates who were hired was not a legitimate non-discriminatory reason for the employer's hiring decision. Further, Owens gave cogent, plausible reasons why Escobedo's interview performance was inferior to the performance of the candidates chosen for the Angleton and Huntsville positions.

The district court also did not err in rejecting plaintiff's claim that the defendant's refusal to hire him for the Gatesville position was in retaliation for his filing an EEOC complaint. As with the court's analysis of Escobedo's discrimination claim, the district court correctly determined that plaintiff failed to show that Owens' non-discriminatory, non-retaliatory rationale in not hiring Escobedo was pretextual.

For these reasons and the reasons assigned by the district court in its thorough 20 page opinion, we affirm the judgment of the district court.

AFFIRMED.