

75 Fed.Appx. 285

This case was not selected for publication in the Federal Reporter.

Not for Publication in West's Federal Reporter See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also Fifth Circuit Rules 28.7, 47.5-3, 47.5-4. (Find CTA5 Rule 28 and Find CTA5 Rule 47)

United States Court of Appeals,  
Fifth Circuit.

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION, Plaintiff-Counter  
Defendant-Appellee-Cross-Appellant,

v.

K&B LOUISIANA CORPORATION, Doing  
Business as Rite Aid Corporation,  
Defendant-Counter  
Claimant-Appellant-Cross-Appellee.

No. 02-30960. | Sept. 16, 2003.

Appeals from the United States District Court for the Western District of Louisiana. m 00-CV-2238.

#### Attorneys and Law Firms

\*286 Paula R. Bruner, Washington, DC, for Plaintiff-Counter-Defendant-Appellee-Cross-Appellant.

George Davidson Fagan, Leake & Andersson, New Orleans, LA, for Defendant-Counter-Claimant-Appellant-Cross-Appellee.

Before JOLLY, SMITH, and EMILIO M. GARZA, Circuit Judges.

#### Opinion

PER CURIAM.\*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The EEOC sued, alleging that K&B Louisiana Corporation engaged in unlawful discrimination for failing to rehire Johnny Williams on the basis of her sex. After a bench trial, the court ruled that K&B had engaged in an unlawfulemployment practice, refused injunctive relief, and ordered each side to bear its own costs and attorney's fees. K&B appeals on various grounds, including its assertion that there was no direct evidence of discrimination; K&B also seeks fees and costs. The EEOC cross-appeals the decision not to award injunctive relief.

We have read the briefs and pertinent portions of the record and have heard the arguments of counsel, and have consulted the applicable caselaw. We find no reversible error. There was certainly direct evidence of sex-based discrimination, including an admission by K&B's manager that he preferred to hire men for a particular post. Consequently, the EEOC did not have to prove that Williams was qualified. The district court was well within its discretion in declining injunctive relief. The court's refusal to shift costs or attorneys fees is a fair resolution of this matter, which badly needs to be put to rest.

The judgment is AFFIRMED.

#### Parallel Citations

2003 WL 22135597 (C.A.5 (La.))