

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 00-50410  
Summary Calendar

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TONY LEE MCCLAIN,

Plaintiff-Appellant,

VERSUS

THORNTON OIL COMPANY,

Defendant-Appellee.

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Appeal from the United States District Court  
For the Western District of Texas

(SA-98-CV-909-OLG)

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February 5, 2001

Before DAVIS, JONES, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Tony L. McClain (hereinafter "McClain") filed suit pro se against his former employer, Thornton Oil Company (hereinafter "Thornton"), in the federal District Court for the Western District of Texas alleging that he was terminated from his employment because of his race (black) and that he was racially harassed during his employment. Thornton answered and alleged that McClain

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

was terminated because of a \$200 shortage in his cash register which occurred one month after he was initially employed by Thornton. Thornton moved for summary judgment and the district court referred the matter to the magistrate judge for a report and recommendation. The magistrate judge conducted a summary judgment hearing and recommended that the motion of Thornton for summary judgment be granted. McClain filed objections thereto and the district judge made a de novo review of the magistrate judge's report and recommendations and McClain's objections thereto. The district judge determined to adopt the recommendations of the magistrate judge and entered summary judgment in favor of Thornton. McClain appealed.

We have carefully reviewed the briefs, the reply brief, the record excerpts and relevant portions of the record itself. We affirm the judgment of the district court which grants summary judgment in favor of Thornton.

**AFFIRMED.**