

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10074
Summary Calendar

GERALD R. BROOKMAN and DARLENE L. BROOKMAN,

Plaintiff-Appellant,

versus

JESSE BROWN, Secretary, an Officer of the United States of
America,

Defendant-Appellee.

Appeal from the United States District Court
for the
Northern District of Texas
(4;95-CV-428-A)

June 9, 1997

Before JOHNSON, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:*

The defendant's, the Secretary of Veteran's Affairs (the Secretary), petition for rehearing is granted and this court's prior opinion is withdrawn. The following opinion is substituted in its place.

On appeal, Gerald and Darlene Brookman complain that the district court erroneously granted summary judgment in favor of the Secretary. The Brookmans contend that a material fact issue exists

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

about the Secretary's status as a bona fide purchaser.

We review the district court's order granting summary judgment in favor of the Secretary de novo. See, e.g., Degan v. Ford Motor Co., 869 F.2d 889, 892 (5th Cir. 1989). In determining whether the district court properly granted summary judgment, this court applies the same standards used by the district court. Thus, we review the evidence a light most favorable to the non-movant and then determine whether the movant is entitled to judgment as a matter of law. See id.

After carefully reviewing the record in the present case, we hold that no genuine issue of material fact exists as to the Secretary's status as a bona fide purchaser. Therefore, the Secretary is entitled to judgment as a matter of law and the district court's order is

AFFIRMED.