

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-20609

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PAUL R. SMITH,

Plaintiff-Appellant,

versus

CIBA-GEIGY CORPORATION; JOHN K. LIKES; and JAMES M. HAYES,

Defendants-Appellees.

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Appeal from the United States District Court for the  
Southern District of Texas  
(H-94-CV-2381)

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April 8, 1997

Before REAVLEY, JOLLY, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Appellant, Paul R. Smith, appeals from the summary judgment dismissal of his employment discrimination claim brought pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101-12213, and his state tort claim for intentional infliction of emotional distress. After a *de novo* review of the summary judgment

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

evidence and pleadings, and consideration of the appellate briefs and argument presented on appeal, we affirm the judgment of the district court. Smith has fallen far short of establishing a genuine issue of material fact on his state law tort claim, and the summary judgment proof with respect to his ADA claim is likewise insufficient. Considering the evidence in the light most favorable to Smith, he has not shown that he was qualified for his former position as a sales representative for the appellee corporation, nor that he was treated less favorably than non-disabled employees. We affirm for essentially the reasons set forth by the district court in its order of May 23, 1996, granting summary judgment.

AFFIRMED.