

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

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No. 97-11160  
Summary Calendar

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LUCIAN R. HENDERSON,

Plaintiff-Appellant,

versus

ABILENE REGIONAL MHMR CENTER;  
WILLIAM V. LIVINGSTON, former executive  
director; ROSCOE C. HOLLIDAY, former  
personnel director,

Defendants-Appellees.

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Appeal from the United States District Court  
For the Northern District of Texas  
(1:97-CV-55-C)

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June 11, 1998

Before POLITZ, Chief Judge, JONES and DeMOSS, Circuit Judges.

PER CURIAM:\*

Lucian R. Henderson, a black male, was employed at Abilene Regional Mental Health-Mental Retardation Center. He was dismissed in June 1995 and was

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

replaced by a younger, white female. Proceeding *pro se* he filed the instant Title VII action alleging age and race discrimination.

Contemporaneous with filing suit Henderson moved for appointment of counsel. The district court denied this motion and Henderson retained counsel. For reasons which do not appear in the record, this counsel withdrew or was dismissed and Henderson renewed his motion for appointment of counsel. The trial court again denied this motion and Henderson appealed.

The appointment of counsel for plaintiffs in Title VII cases is not a matter of right but is relegated to the sound discretion of the district court.<sup>1</sup> Such appointments are to be made only under exceptional circumstances.<sup>2</sup> Appellate review of the trial court's decision is limited to a determination whether the court abused its considerable discretion. The record before us discloses no such abuse and the ruling appealed is AFFIRMED.

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<sup>1</sup> **Salmon v. Corpus Christi I.S.D.**, 911 F.2d 1165 (5th Cir. 1990).

<sup>2</sup> **Jackson v. Dallas Police Dept.**, 811 F.2d 260 (5th Cir. 1986).