

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10431
Summary Calendar

OTIS C. TOLBERT,

Plaintiff-Appellant,

versus

ROBERT VASQUEZ, in his official capacity at
Dallas Area Rapid Transit as Assistant
Executive Director of Administration, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(3:93-CV-1468-X)

November 12, 1998

Before KING, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Otis C. Tolbert, *pro se*, appeals the summary judgment dismissing his claims against the Dallas Area Rapid Transit (DART) and its employees, officers, and board members, for racial discrimination, denial of due process and equal protection, and intentional infliction of emotional distress, arising out of his demotion and discharge in 1990 from his position as Director of Minority Affairs.

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Based upon our *de novo* review of the record, we **AFFIRM** the summary judgment essentially for the reasons stated by the district court in its comprehensive opinion. See ***Tolbert v. Vasquez***, No. 3:93-CV-1468-X (N.D. Tex. Mar. 27, 1998) (unpublished). Tolbert has not shown an abuse of discretion (or plain error with regard to those contentions raised for the first time on appeal) concerning his claim that the summary judgment was obtained by misrepresentation and fraud in connection with the extension of a deadline.

Appellees' request for attorneys' fees and costs, on the ground that Tolbert's appeal is frivolous, is denied. Tolbert has filed several actions concerning this matter; accordingly, he is cautioned that sanctions may be imposed against him if he makes any further attempts to relitigate his claims concerning his demotion and discharge.

AFFIRMED