

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11306

ROBERT W. PRZYBYLSKI,

Plaintiff-Appellant,

v.

UNITED STATES ELEVATOR CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
(3:97-CV-1667-P)

November 2, 1999

Before GARWOOD, SMITH and BENAVIDES, Circuit Judges.

PER CURIAM:*

Appellant Robert W. Przybylski ("Przybylski") appeals from the district court's ruling granting appellee United States Elevator Corporation ("U.S. Elevator") summary judgment. Specifically, Przybylski contends that the district court erred in holding that he had failed to state a prima facie case for age discrimination under the Texas Commission on Human Rights Act, Tex. Lab. Code Ann. § 21.051.

We have considered the parties' arguments and the record,

* Pursuant to 5th Cir. Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. Rule 47.5.4.

and we agree with the district court that Przybylski's claim can be resolved as a matter of law. Przybylski's claim based on his transfer fails because under the undisputed facts with respect to such transfer, the same did not constitute an adverse employment action. We therefore affirm, essentially for the same reasons as enunciated by the district court in its opinion issued on October 9, 1998.

To the extent that Przybylski's claim complains of his subsequent dismissal, Przybylski offered no evidence to raise a fact issue with respect to the legitimate, non-discriminatory reasons for his firing advanced by U.S. Elevator.

AFFIRMED