

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-30837  
Summary Calendar

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ANDERSON A. STEVENSON,

Plaintiff-Appellant,

VERSUS

PEPSICO INC., ET AL.,

Defendants,

DELTA BEVERAGE GROUP, INC.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Louisiana

(97-CV-2806-T)

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March 16, 2000

Before HIGGINBOTHAM, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:\*

Anderson Stevenson filed suit in the 24th Judicial District Court for the Parish of Jefferson, State of Louisiana, claiming that Pepsico, Inc. maliciously prosecuted him for his supposed role in a theft of Pepsico products. Pepsico removed the case to the United States District Court for the Eastern District of Louisiana; and Stevenson then joined Delta Beverage, a joint venturer of his former employer, as defendant claiming that Delta Beverage also maliciously prosecuted him. Pepsico filed a motion for summary

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

judgment which was granted. The claim against Delta Beverage proceeded to trial before the district judge without a jury. Stevenson declined to testify during the trial. The district court found Stevenson failed to prove that Delta Beverage acted "without probable cause and with malice." The district judge entered judgment in favor of defendants and against the plaintiff. Stevenson appeals.

We have carefully reviewed the briefs, the reply brief, the record excerpts and relevant portions of the record itself. We are unable to conclude that the district court was clearly erroneous in finding that Stevenson failed to prove essential elements of his claim. The judgment of the district court is

**AFFIRMED.**