

STATE OF MICHIGAN  
COURT OF APPEALS

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BOBBY BRYANT,

Plaintiff–Appellant,

v

MARATHON OIL CO and LARRY  
ECHELBERGER, Jointly and Severally,

Defendants–Appellees.

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UNPUBLISHED

July 19, 1996

No. 179343

LC No. 93-315826 NO

Before: Reilly, P.J., and Cavanagh and R.C. Anderson,\* JJ.

MEMORANDUM.

Plaintiff appeals as of right the trial court’s September 21, 1994, grant of summary disposition to defendant pursuant to MCR 2.116(C)(10). Plaintiff alleged racial discrimination by defendant in violation of the Civil Rights Act, MCL 37.2101 *et seq.*; MSA 3.548(101) *et seq.* We affirm.

A prima facie case of race discrimination can be made by showing that plaintiff is a member of a class entitled to protection under the act and that, for the same or similar conduct, or, although similarly situated, he was treated differently than one who was member of a different race. *Betty v Brooks & Perkins*, 446 Mich 270, 281; 521 NW2d 518 (1994). We find that plaintiff failed to establish a prima facie case of racial discrimination because there was no evidence presented that plaintiff had similar qualifications to those individuals actually promoted by defendant. Those individuals who were promoted had four-year technical degrees, whereas plaintiff did not. Even had plaintiff succeeded in proving a prima facie case, defendant articulated a legitimate, non-discriminatory reason for not promoting plaintiff, namely, that a degree was a prerequisite for the position of Safety Supervisor. Since plaintiff failed to present evidence to raise a triable issue of fact that this reason was a pretext for racial discrimination, he could not establish his claim of race discrimination. *Sisson v Bd of Regents of the Univ of Michigan*, 174 Mich App 742, 746, 748; 436 NW2d 747 (1989). Summary disposition was proper pursuant to MCR 2.116(C)(10).

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Based on this finding, we find it unnecessary to address plaintiff's remaining issue regarding a continuing violation.

Affirmed.

/s/ Maureen Pulte Reilly

/s/ Mark J. Cavanagh

/s/ Robert C. Anderson