

1 UNITED STATES COURT OF APPEALS
2 FOR THE SECOND CIRCUIT

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4 SUMMARY ORDER

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6 THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL
7 REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS
8 OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS
9 OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A
10 RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL
11 OR RES JUDICATA.
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13 At a stated term of the United States Court of Appeals for the Second Circuit, held at the United
14 States Courthouse, Foley Square, in the City of New York, on the 27th day of September, two
15 thousand and four.
16

17 PRESENT:

18 HON. WILFRED FEINBERG
19 HON. THOMAS J. MESKILL
20 HON. BARRINGTON D. PARKER, JR.,
21 *Circuit Judges,*
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24 Andrew M. Allaire
25 *Plaintiff-Appellant*

SUMMARY ORDER
No. 03-9291

26
27
28 v.
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30 HSBC Bank, USA
31 *Defendant-Appellee*
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35 COUNSEL FOR PLAINTIFF-APPELLANT: ROBERT B. MORIARTY, Buffalo, NY, Moriarty &
36 Dee.
37 COUNSEL FOR DEFENDANT-APPELLEE: JAMES R. GRASSO, Buffalo, NY, Phillips Lytle LLP.
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40 Appeal from a judgment of the United States District Court for the Western District of New York
41 (Elfvin, J.).
42

43 ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND

1 DECREED that the judgment of the District Court be and it hereby is AFFIRMED.
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3 Andrew Allaire appeals a judgment of the United States District Court for the Western
4 District of New York (Elfvig, *J.*) dismissing his claim of employment discrimination, which was
5 brought pursuant to Title VII of the Civil Rights Act of 1964. *See* 42 U.S.C. § 2000e-2(a).
6 Familiarity with the relevant facts, procedural history and issues raised on appeal is presumed.

7 Andrew Allaire is a white male who began working for HSBC Bank in 1985. He claims
8 that his termination in 1999 was motivated by HSBC's desire to prevent a valued African-
9 American female employee from leaving to accept employment with another bank. HSBC
10 claims that Allaire was terminated due to his poor performance, specifically his failure to
11 properly address and correct important deficiencies in a loan portfolio he supervised and
12 inaccuracies in a self-audit that he performed of the office in Dallas that he had managed.
13 Following discovery, HSBC moved for summary judgment.

14 The District Court concluded that HSBC was entitled to summary judgment because
15 Allaire did not establish any genuine issue of material fact as to whether race or gender motivated
16 HSBC's decision to terminate him. Crucially, he did not establish beyond conclusory allegations
17 that HSBC knew of the other employee's intended departure prior to its decision to fire Allaire.

18 On appeal, Allaire, pursuing a dual motive employment discrimination claim, contends
19 that he did establish a reasonable inference of discriminatory intent on the part of the HSBC.
20 Regardless of how his claim is styled, however, to avoid summary judgment Allaire had to
21 establish the existence of genuine issues of material fact as to whether his discharge was
22 motivated by his race or gender. We believe that the District Court properly found that Allaire's

1 evidence “amount[ed] to nothing more than his own conclusory allegations.” *Allaire v. HSBC*
2 *Bank USA*, 2003 U.S. Dist. LEXIS 25081, *18 (W.D.N.Y. 2003). Allaire therefore did not create
3 a genuine issue of material fact as to whether HSBC’s proffered reasons for his discharge were
4 pretextual.

5 Accordingly, the judgment of the District Court is affirmed.

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7 FOR THE COURT:
8 Roseann B. MacKechnie, Clerk
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10 By: Richard Alcantara, Deputy Clerk
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