

Summary Judgment Review

Case Name: *Willingham v. City of Douglasville, GA, et al.*

Nature of the Order: Magistrate's Report & Recommendation

Magistrate Judge: Walter E. Johnson

District Judge: Clarence Cooper

Claims & Outcomes:

1. **Claim:** 42 U.S.C. § 1983 – race discrimination and retaliation

Outcome: Recommend Summary Judgment Denial

2. **Claim:** Title VII of the Civil Rights Act of 1964 – race discrimination and retaliation

Outcome: Recommend Summary Judgment Denial

3. **Claim:** 42 U.S.C. § 1981 – race discrimination and retaliation

Outcome: Recommend Summary Judgment Denial

Whether R&R Followed: N/A

For Race/Gender Discrimination Cases:

Race of Plaintiff: white

Gender of Plaintiff: N/A

Summary

Plaintiff Bobby Willingham (“Plaintiff” or “Willingham”) worked for the City of Douglasville in the Parks and Recreation Department as Parks Maintenance Supervisor. He reported directly to the Parks and Recreation Director, Mr. Travis Landrum who was hired in 2016. Prior to Landrum’s employment, Willingham received stellar reviews and awards for his work with the Parks and Recreation Department. Landrum’s first evaluation of Plaintiff after managing him for about three months was similar to those penned by his predecessor. About a year after joining the Parks and Recreation Department as Director, Landrum told his employees that the department was raising the standards on employee evaluations. Landrum awarded Plaintiff a score of three (meets expectations) in sixteen areas and a score of five (exceptional) in two areas: “work habits and dependability” and “teamwork.” At the same time, Landrum gave Willingham a score of two (improvement needed) in only two areas: “oral and written communication skills” and “supervision.”

On April 19, 2018, Mr. Willingham instructed his direct report, David Chapman, to take another employee for a drug test and, when the employee tried to manipulate the drug test, he

immediately called Human Resources and asked for direction. Willingham attempted to discuss with Landrum, but Landrum was out of the office for the day. Landrum issued plaintiff a written reprimand for violating Sections 8-3(7) and 8-3(17) of the City's Personnel Policies and Procedures ("PPP") for failing to properly communicate with his direct reports and to him that an employee had attempted to manipulate a random drug test screen. When Plaintiff appealed, Landrum and Ms. Marcia Hampton upheld the written reprimand. Ms. Sheila Mason and Mr. Willingham also discussed how Mr. Landrum was treating Mr. Willingham differently than African-American employees, and Ms. Mason told Mr. Willingham that that she was retiring before Mr. Landrum started mistreating her like he did him.

On July 16, 2018, Mr. Willingham placed a letter in interoffice mail to Ms. Hampton in which he alleged that he had been targeted by Mr. Landrum since he appealed his May 10, 2018 discipline. In the letter, Mr. Willingham wrote as follows: "I feel that because I am a 46-year-old white male that I am being targeted by the all black administration for some reason."

On August 3, 2018, Landrum issued plaintiff a one-day unpaid suspension for violating Sections 8-3(7) and 8-3(12) of the City's PPP by failing to properly communicate with him regarding the whereabouts of a subordinate who had been absent for more than three days in violation of the City's PPP, and thereafter timely and properly administer a termination notice to that subordinate. Plaintiff asked Landrum to reconsider as he had been in communications with Landrum during this time about the situation with the absent employee. Hampton upheld the August 3, 2018 discipline, testifying that it was her belief that plaintiff failed to properly communicate. Willingham filed a grievance with the City based on "discrimination age, racial and retaliation" His grievance was rejected without investigation. Following the rejection, Hampton placed Willingham on 90-day performance plan.

On December 10, 2018, Mr. Willingham overheard Mr. Landrum on his cellular telephone stating, "I am going to get rid of that white boy, hopefully soon." During Willingham's performance program, Hampton suggested that he move to a "mostly white" department. At the end of the 90-day improvement period, Mr. Landrum concluded that plaintiff did not successfully complete his performance plan because he did not show improvement in his communication skills, supervision, conflict resolution, or implementation and accurate interpretation of City and departmental policies. He was demoted with reduced pay. Willingham then applied for other jobs with the department and was denied. This action followed.

Defendants moved for summary judgment on all of Plaintiff's claims. The magistrate judge, Walter E. Johnson, analyzed Plaintiff's Title VII claim, § 1983, and § 1981 claims together and recommended that the motion for summary judgement on these claims be denied. The magistrate judge stated that Landrum's and Hampton's comments on race were not direct evidence of discrimination as they did not meet the stringent standard. The magistrate judge proceeded under the *McDonnell Douglas* framework and found that Plaintiff satisfied his prima facie case, including the required showing of similarly situated comparators. After briefly concluding that Defendants established a legitimate non-discriminatory reason, the magistrate judge stated that

there was substantial circumstantial evidence that showed Landrum acted with discriminatory motive, and the magistrate judge specifically noted Landrum's comment about "get[ting] rid of that white boy" and Hampton's comment regarding a move to a mostly white department. The magistrate judge also concluded that the comments regarding Landrum's treatment by Willingham's direct reports indicated animus.

With respect to Plaintiff's retaliation claims, the magistrate judge determined that Plaintiff satisfied all of the required elements and that a reasonable jury could find that Defendants retaliated against him based on his repeated complaints of discrimination. The magistrate judge noted that the majority of his analysis here was similar to his analysis on the discrimination claims.

The magistrate judge also assessed municipal liability under § 1983 and determined that the City of Douglasville could be held liable.

Judge Johnson, therefore, recommended DENIAL of summary judgment on all claims.