



alleged harassment first happened in June 2016. Id. At that time, Plaintiff's co-worker allegedly told her, "You should go back to your country." Id.

In November 2017, Plaintiff filed a complaint with Wellstar's compliance hotline in which she alleged that she had been assigned additional work and that co-workers had spoken inappropriately to her. Id. at 5. Defendant Wellstar's Senior HR Consultant Laquana Ross investigated Plaintiff's complaint, but Ms. Ross was not able to substantiate Plaintiff's allegations that she had been spoken to inappropriately, treated differently, or assigned additional job duties. Id.

In January or February 2018, someone who was training with Plaintiff's department but who was not a Wellstar employee made offensive comments to Plaintiff. Id. at 5–6. The trainee told Plaintiff, "[Y]ou come from some country and you come in here for make mischief with these people." Id. at 6. She also told Plaintiff, "She said, you always complaining, you come from some country, what you come here for cause problem with these people here." Id.

Plaintiff resigned from Defendant Wellstar in September 2018. Id. She contends that she did so because the harassment had become overwhelming to her, and she alleges that on her last day a Wellstar employee made degrading comments about her national origin: "[Ashley] tell me she didn't know why I come here so I causing come—I causing problem, was go back—why I come—what country I come from and I come here for cause problem." Id.

Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") on October 4, 2018. Id. at 7; Dkt. No. [51].

She alleged that she had been subject to retaliation and discrimination based on national origin. Dkt. No. [61] at 7; Dkt. No. [51]. She alleged that co-workers and nurses called her names and bullied her; that she was assigned more patients than her co-workers; and that she was constructively discharged on September 17, 2018. Dkt. No. [61] at 7.

The evidence further reflects that Plaintiff received a raise each year she worked at Wellstar, that her hours worked each week were never reduced, and that her job duties remained the same throughout her employment. Id.

At this stage, Plaintiff has two remaining claims. Id. at 9. First, Plaintiff alleges that Defendant Wellstar violated Title VII because its employees subjected her to a hostile work environment, humiliated her through offensive comments, and gave her harsh work assignments, all because of her national origin. Id. And second, Plaintiff alleges a Title VII violation because the work environment was so hostile that she was constructively discharged. Id. at 10.

The parties each filed a Motion for Summary Judgment on Plaintiff's remaining claims. Dkt. Nos. [49, 51]. The Magistrate Judge recommended that Plaintiff's Motion be denied and Defendant's Motion be granted. Dkt. No. [61]. Plaintiff filed objections, Dkt. No. [64], to which the Court will turn after setting out the legal standard that applies.

## **II. LEGAL STANDARD**

Under 28 U.S.C. § 636(b)(1), the Court reviews the Magistrate Judge's Report and Recommendation for clear error if no objections are filed. 28 U.S.C.

§ 636(b)(1). If a party files objections, the district court must review *de novo* any part of the Magistrate Judge’s disposition that is the subject of a proper objection.

Id. Because Defendants filed objections to the Magistrate Judge’s findings, the Court reviews the challenged findings and recommendations on a *de novo* basis

The Court recognizes that Plaintiff is proceeding *pro se*. The court reads “the briefs of *pro se* parties liberally.” Ebanks v. Samsung Telecomm. Am, LLP, 667 F. App’x 740, 741 (11th Cir. 2016) (per curiam) (unpublished) (citing Lorisome v. I.N.S., 129 F.3d 1441, 1444 n.3 (11th Cir. 1997)). Even so, Plaintiff must still “demonstrate that there is a genuine issue of material fact in order to escape summary judgment.” Id. (citing Brown v. Crawford, 906 F.2d 667, 670 (11th Cir. 1990)).

### III. DISCUSSION

Plaintiff raises three objections to the Magistrate Judge’s R&R. Dkt. No. [64]. First, Plaintiff argues that the Magistrate Judge erroneously disregarded her version of the facts. Id. at 2–3. Second, Plaintiff argues that the Magistrate Judge erred in finding that Plaintiff did not face an actionably hostile work environment. Id. at 6–8. Third, Plaintiff argues that she faced working conditions so intolerable that she was constructively discharged, contrary to the Magistrate Judge’s findings. Id. at 9. Defendant opposes each of Plaintiff’s objections. Dkt. No. [65]. The Court has reviewed the R&R and addresses each objection in turn.

**A. Plaintiff's Facts**

Plaintiff first objects to the Magistrate Judge's finding that Plaintiff did not file a proper statement of material facts. Dkt. No. [64] at 2. The Magistrate Judge found that Plaintiff had failed to comply with Local Rule 56.1, which requires parties moving for summary judgment to provide a "separate, concise, numbered statement of the material facts to which the movant contends there is no genuine issue to be tried." *Id.* at 2–3 (citing LR 56.1(B)(1), N.D. Ga.). For this reason, the Magistrate Judge explained that she would not consider facts offered by Plaintiff only in her brief. *Id.* at 3. Plaintiff objects on the grounds that she included a section in her summary-judgment brief entitled "Statement of Undisputed Facts" in which she lists allegations of fact. Dkt. No. [49] at 4.

The Court agrees with the Magistrate Judge's decision on this issue. While the Magistrate Judge noted that Plaintiff failed to strictly comply with the Local Rules, she also carefully examined Plaintiff's factual allegations wherever possible. The Magistrate Judge acknowledged that Plaintiff included a fact section in her brief. Dkt. No. [61] at 3. The Magistrate Judge observed that many of Plaintiff's facts in this section are naked allegations unsupported by reference to evidence. *Id.* at 13 ("Plaintiff has not offered any specifics about when these things happened, how often the incidents occurred, or who made the alleged comments or took the alleged actions."). That observation was correct, and this Court agrees with the Magistrate Judge to the extent Plaintiff lists accusations concerning anonymous employees of Defendant Wellstar with no references to

record evidence. See LR 56.1(B)(1) (“The Court will not consider any fact . . . not supported by a citation to evidence.”). Plaintiff’s fact section consists almost entirely of unsupported statements like the following: “[A]mong other things, the harassment ranged from direct verbal abuse and finger pointing in a jeering manner, to slamming the door of the recreation room on her as she performed her duties.” Dkt. No. [49] at 5.

Granted, there are several places in Plaintiff’s statement of facts where she refers to her own deposition testimony. Id. at 4, 6. But the Magistrate Judge examined and considered these statements when she rejected Plaintiff’s hostile work environment claim, Dkt. No. [61] at 14, which means that the Magistrate Judge did consider Plaintiff’s allegations, to the extent they were identifiable, despite Plaintiff’s failure to include a separate Rule 56.1 statement.

Accordingly, the Court finds that the Magistrate Judge’s treatment of Plaintiff’s facts was proper. Plaintiff’s objection on this basis is **OVERRULED**.

### **B. Hostile Work Environment**

Plaintiff next argues that she has alleged a Title VII claim based on Defendant Wellstar’s hostile work environment. Dkt. No. [64] at 6. While Plaintiff makes an offhand reference to the R&R in this section, she does not target any specific portion of the R&R. Instead, Plaintiff re-argues her hostile-work-environment claim couched in legal terms without citations to facts or evidence of any kind. While parties do have an obligation to object to specific findings to trigger *de novo* review, 28 U.S.C. § 636(b)(1), the Court understands

that Plaintiff is proceeding *pro se*. The Court will therefore review the Magistrate Judge's recommendation on Plaintiff's hostile work environment generally.

The Court has conducted an independent review of the allegations of harassment that Plaintiff raised in her summary judgment briefing. The Court finds that they are either facts that the Magistrate Judge did consider, or they are vague, anonymous accusations about teasing that Plaintiff endured at work. As the Magistrate Judge correctly observed, much of this alleged harassment did not target Plaintiff's national origin or any protected activity she had engaged in. Dkt. No. [61] at 14; see also Oncale v. Sundower Offshore Servs., Inc., 523 U.S. 75, 80 (1998) ("Title VII does not prohibit all verbal or physical harassment in the workplace . . ."). And the few offhand comments that Plaintiff cites do not provide the requisite severity or pervasiveness for an actionable hostile work environment claim. In short, Plaintiff's allegations do not rise to anywhere near the level required to state a claim under Title VII. "Title VII is not a general civility code; ordinary tribulations of the workplace, such as sporadic use of abusive language . . . cannot form the basis of a claim for actionable harassment or hostile work environment." Corbett v. Beseler, 635 F. App'x 809, 816 (11th Cir. 2015) (per curiam) (unpublished).

The Court is sympathetic to Plaintiff for any irritation she suffered in the workplace. But Title VII is a statute geared towards addressing severe and pervasive harassment of a kind that Plaintiff did not endure in this case, even viewing the facts in the light most favorable to her. Title VII "is not a shield

against harsh treatment in the workplace . . . .” Succar v. Dade Cty. Sch. Bd., 229 F.3d 1343, 1345 (11th Cir. 2000).

Accordingly, the Court agrees with the Magistrate Judge’s findings regarding Plaintiff’s hostile work environment claim. Plaintiff’s objection on this basis is **OVERRULED**.

### **C. Constructive Discharge**

Plaintiff reiterates her constructive-discharge allegations in objecting to the R&R. Dkt. No. [64] at 9. As with the hostile work environment section, this section includes citations and conclusory allegations that Plaintiff suffered hostility of adequate severity to force her resignation.

The Court agrees with the Magistrate Judge’s decision to grant summary judgment to Defendant on Plaintiff’s constructive-discharge claim. “To establish a constructive discharge, a plaintiff must show that working conditions were so intolerable that a reasonable person in her position would have been compelled to resign.” Menzie v. Ann Taylor Retail Inc., 549 F. App’x 891, 894–95 (11th Cir. 2013) (per curiam) (unpublished). “This objective standard sets a high threshold; it requires a plaintiff to show harassment that is more severe or pervasive than the minimum level required to establish a hostile working environment.” Id. Here, Plaintiff “failed to meet even the standard for a hostile work environment. She cannot, therefore, meet the higher standard for constructive discharge.” Barrow v. Ga. Pacific Corp., 144 F. App’x 54, 59 (11th Cir. 2005) (per curiam) (unpublished).

Accordingly, Plaintiff's objection to the Magistrate Judge's recommendation on this issue is **OVERRULED**.

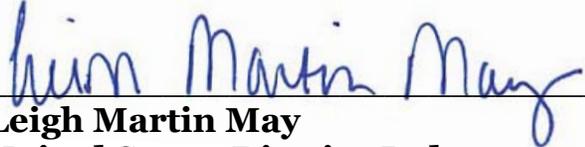
**IV. CONCLUSION**

Based upon the foregoing, Plaintiff's Objections [64] to the R&R are **OVERRULED**.

The Court **ADOPTS** the Magistrate Judge's Report & Recommendation ("R&R") [61] as the opinion of this Court. Defendant Wellstar Atlanta Medical Center, Inc.'s Motion for Summary Judgment [51] is **GRANTED**. Plaintiff Desiree Jordan-Philadelphia's Motion for Summary Judgment [49] is **DENIED**.

The Clerk is **DIRECTED** to **CLOSE** this case.

**IT IS SO ORDERED** this 6th day of May, 2021.

  
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**Leigh Martin May**  
**United States District Judge**