

## Summary Judgment Review

**Case Name:** Davis v. Dekalb County, Georgia

**Nature of the Order:** Magistrate's Report & Recommendation

**Magistrate Judge:** Justin S. Anand

**District Judge:** Leigh Martin May

**Claims & Outcomes:**

1. **Claim:** Title VII, race discrimination
  - **Outcome:** Recommend Summary Judgment be Granted
2. **Claim:** 42 U.S.C. § 1981, race discrimination
  - **Outcome:** Recommend Summary Judgment be Granted

**For Race Discrimination Cases:**

**Race of Plaintiff:** African American

**Long Summary:**

Plaintiff, a Dekalb County Firefighter at the time of his employment with Dekalb County, filed suit against his former employer, alleging race discrimination claims under Title VII and Section 1981. Defendant, after discovery closed, moved for summary judgment. The magistrate judge recommended that the motion be granted.

Plaintiff was arrested for obstruction and disorderly conduct. Defendant launched an investigation and ultimately terminated Plaintiff because of his actions. The magistrate judge stated that Plaintiff established a *prima facie* case of discrimination, including the showing of a relevant comparator. Defendant argued that it had a legitimate, non-discriminatory reason for termination because Plaintiff's conduct the night of his arrest warranted termination as opposed to the conduct of the comparator in this case, which Defendant contended did not warrant termination. The magistrate judge found that Defendant had satisfied its burden in showing that it had a legitimate, non-discriminatory reason for termination Plaintiff. Next, Plaintiff argued that the Defendant's reason for termination was pretextual because (1) there were inconsistencies in the reasons given by Defendant and (2) there were inconsistencies in the application of the employee policies. However, the magistrate judge recommended granting the motion because "[i]n the end, Plaintiff's argument is nothing more than a dispute with the wisdom or fairness of the Defendant's decision to terminate his employment, when compared to Defendant's decision to suspend Smalley [comparator] rather than terminate him."

The magistrate judge also determined that Plaintiff did not cite to any evidence of a "convincing mosaic" of circumstantial evidence that would suggest that the decisionmaker harbored any discriminatory animus based on Plaintiff's race. Plaintiff argued that "Recruit William Devereaux told him that black firefighters do not like or trust Chief Fullum; that Instructor

Lindsay once told him to “stay focused and do well in the program because they’re looking for any reason to get rid of black recruits”; and that he was “informed that racially-charged comments were occurring within the workplace, such as shifts that were scheduled with a majority of Black employees being referred to as ‘Soul Patrol.’” The magistrate judge agreed with Defendant that these statements were based on hearsay and not on Plaintiff’s personal knowledge of hearing the decisionmaker ever say these things. The writer of this summary notes that these statements could be admissible non-hearsay under Federal Rule of Evidence 801(d)(2)(D) if it was made by the party’s employee on “a matter within the scope of that relationship and while it existed.”

Accordingly, the magistrate judge recommended granting the motion on all claims.