

Summary Judgment Review

Case Name: *Patel v. WellStar Atlanta Medical Center, Inc.*

Nature of the Order: Order Adopting the Report & Recommendation and Granting Summary Judgment

Magistrate Judge: Linda T. Walker

District Judge: Eleanor L. Ross

Claims & Outcomes:

1. **Claim:** Age Discrimination (ADEA)
 - a. **Outcome:** Summary Judgment Granted
2. **Claim:** Retaliation (ADEA)
 - a. **Outcome:** Summary Judgment Granted

Whether R&R Followed: Yes

For Race/Gender Discrimination Cases:

Race of Plaintiff: N/A

Gender of Plaintiff: N/A

Summary

Plaintiff Paresha Patel (“Patel” or “Plaintiff”) worked as a Nuclear Medicine Technologist for Defendant WellStar Atlanta Medical Center, Inc. (“WellStar” or “Defendant”), which operates a medical facility. In July 2018, Patel complained to her supervisor and, in turn, her supervisor’s supervisor, that she was being unfairly assigned fewer hours than her coworkers. Her coworkers were 11-13 years younger than her. However, she never specifically referenced her age as the reason she believed she was being treated worse. Her supervisor’s supervisor, Karen Cates, testified that she looked into the issue and found no discrepancy in the assignment of hours. Later, Patel renewed her complaints and made specific reference to the hours her coworkers were working. When asked how she knew the hours they were working, Patel said she looked in EPIC, WellStar’s patient medical records system. Patel testified that she meant she was looking at patient scheduling data, not protected health information or medical records. But WellStar’s employees testified that the only way to know which employees worked on particular days using EPIC was to look at individual patient medical records to see who had entered information into those records. It is against company policy to access medical records for anything but work-related purposes. On certain days when Patel was not scheduled to work, her coworkers complained that they could not access patient medical records because Patel was looking at them from home (the system only allows one employee to access the records at a time and Patel had access to EPIC from her home

computer). On August 17, 2018, Patel was told that the head of Compliance had recommended she be terminated, and she opted to resign in lieu of termination.

Patel filed suit in this case, alleging age discrimination and retaliation in violation of the Age Discrimination in Employment Act (“ADEA”). WellStar moved for Summary Judgment on both claims. Magistrate Judge Linda T. Walker recommended granting Defendant’s summary judgment motion on both claims. Plaintiff filed objections to the recommendation with respect to the retaliation claim only.

Because Plaintiff did not object to the recommendation regarding the age discrimination claim, District Judge Eleanor L. Ross granted summary judgment with respect to that claim.

As to the retaliation claim, Plaintiff objected that Judge Walker’s Report & Recommendation (“R&R”) did not view the evidence in the light most favorable to the non-moving party (Plaintiff), which is required at summary judgment. If Judge Walker had done so, Plaintiff contended, she would have determined that Patel’s retaliation claim survived summary judgment.

Judge Ross disagreed. Specifically, she held that Patel failed to show she engaged in statutorily protected activity, a prerequisite to any retaliation claim. Plaintiff argued that, viewed in the light most favorable to her, her complaints about unfair assignment of hours compared to her younger colleagues could be understood by a reasonable person to refer to age discrimination. However, Judge Ross noted that Patel never mentioned her age in any of her complaints or otherwise indicated that she was opposing discrimination based on age. Judge Ross distinguished this from a case in which an employee didn’t explicitly mention “sexual harassment” in a complaint, but reported conduct that obviously was sexual harassment and which the employee’s manager even labeled as “sexual harassment.” In contrast, Patel never indicated in any way that the unfair treatment she complained of was age discrimination. General complaints of unfair treatment, however valid, are not protected activity.

Because Plaintiff had not engaged in protected activity, District Judge Ross overruled Plaintiff’s objections, adopted the recommendation of Magistrate Judge Walker, and GRANTED summary judgment on Plaintiff’s ADEA retaliation claim.