

Summary Judgment Review

Case Name: *Barnes v. Emory Healthcare Services Management, LLC (Emory Healthcare, Inc.)*

Nature of the Order: Order

Magistrate Judge:

District Judge: J.P. Boulee

Claims & Outcomes:

1. **Claim:** Interference (FMLA)
 - a. **Outcome:** Summary Judgment Recommended
2. **Claim:** Retaliation (FMLA)
 - a. **Outcome:** Summary Judgment Recommended

Whether R&R Followed: Yes

For Race/Gender Discrimination Cases:

Race of Plaintiff:

Gender of Plaintiff:

Summary

Prior to Lasonya Barnes' ("Plaintiff") resignation from Emory Healthcare Services Management, LLC ("Defendant") in September 2016, she worked as an Electrocardiogram Technician (EKG Technician) at Emory's hospital in Decatur. She resigned after making unsuccessful attempts to find a new position within Emory after a medical issue prevented her from continuing to work in as an EKG Technician. Plaintiff argued that Emory failed to find a position for her when she returned from medical leave, and failed to hire her for an alternate position in violation of the FMLA.

Prior to her resignation, Barnes received twelve weeks of continuous FMLA leave from November 24, 2016, to February 16, 2017, and from August 3, 2018, to October 26, 2018. She also received more than two weeks of intermittent FMLA leave between 2018 and 2019. Plaintiff applied for more than twenty positions within Emory between March 2019 and her resignation in September 2019. She was not hired for any of the roles. Some job requisitions were cancelled and never filled; she was not invited to interview for at least one position because she lacked the requisite experience; and she withdrew herself from consideration for others because the positions did not offer her preferred shift or were not at her preferred location.

The magistrate judge recommended granting summary judgment for Defendant on both counts. As to the first count (interference claim), the Report concluded that there can be no liability for failing to reinstate Plaintiff to her previous position because her physician advised that she could not perform the essential functions of the EKG Technician position, and the "FMLA provides a right of reinstatement [only] to an existing job, not a transfer to a new job that an employee may

prefer.” As to the second count of the complaint (retaliation claim), the Report concluded that even assuming that Plaintiff could present evidence that Defendant’s decision not to hire her in alternate positions was an adverse employment action, she cannot establish a causal link between her FMLA leave and her inability to secure another position with Emory. The magistrate judge found that Plaintiff failed to show that there was a close temporal connection between the end of her FMLA leave in October 2018 and the decision not to hire her in July or August of 2019.

Because Plaintiff did not object to the magistrate judge’s recommendation to grant summary judgment on Plaintiff’s interference claim, the district court judge adopted the Report on that claim.

The Court ultimately decided Plaintiff’s retaliation claim also failed because the decision maker was not aware of the protected conduct at the time of the adverse employment action.