

Summary Judgment Review

Case Name: *Laura E. Alkins v. Butch Conway, in his official capacity*

Nature of the Order: Order Adopting Report & Recommendation

Magistrate Judge: Christopher C. Bly

District Judge: William M. Ray, II

Claims & Outcomes:

1. **Claim:** Retaliation under the opposition clause of Title VII
 - a. **Outcome:** Defendant's MSJ granted

Whether R&R Followed: Yes

For Race/Gender Discrimination Cases:

Race of Plaintiff: N/A

Gender of Plaintiff: N/A

Long Summary:

The District Court adopted the R&R and granted Defendant's motion for summary judgment.

Plaintiff was employed by the Gwinnett County Sheriff's Office from 1999 until her termination on February 23, 2018. On February 2, 2018, Plaintiff was called into Major Raymond Pelis's office to discuss her upcoming routine transfer to the jail for work. Plaintiff told Major Pelis that she was kissed without her permission by Captain Jon Spear eight years prior. She was concerned she would have to work for Captain Spear if she was transferred.

Major Pelis reported her statements regarding the kiss to his chain of command, and her allegations about the kiss were referred to the Professional Standards Unit for an administrative investigation. Plaintiff took a polygraph test and was placed on administrative leave. The investigation determined that her allegations could not "be proved or disproved." Another investigation occurred, focused on statements Plaintiff allegedly made during the course of the initial investigation, resulting in Plaintiff's demotion on February 20, 2018, for the alleged violations of Sheriff's Office Policy Manual. After her demotion, Plaintiff stated that Major Pelis had told her that Captain Spear was caught on video having sexual intercourse in the jail with a health care worker. Another investigation resulted in her termination on February 23, 2018.

Plaintiff alleged that she was retaliated against in violation of Title VII when she was forced to take a polygraph, placed on leave, demoted, and terminated. The Court found, however, that she was unable to make a prima facie case of retaliation because it determined that a reasonable person would not find the circumstances surrounding the alleged sexual harassment to be so severe as to

meet the standard. Specifically, the magistrate judge believed an open-mouth kiss was not overtly sexual and that it was not forced, despite acknowledging that Plaintiff froze, neither giving permission, nor participating in the kiss. The District Court agreed and also noted that the kiss was a single incident that was not reported for eight years.