

Summary Judgment Review

Case Name: Farrakhan v. Dal Global Services D/B/A Delta Global Services, Delta Airlines, and John Does 1–10

Nature of the Order: Order Adopting the Magistrate Judge’s Report and Recommendation

Magistrate Judge: Regina D. Cannon

District Judge: Michael L. Brown

Claims & Outcomes:

1. Claim: Title VII, race, national origin, and religious discrimination
 - **Outcome:** Summary Judgment Granted
2. Claim: 42 U.S.C. § 1981, race/national origin discrimination
 - **Outcome:** Summary Judgment Granted
3. Claim: First Amendment
 - **Outcome:** Summary Judgment Granted
4. Claim: Fourteenth Amendment
 - **Outcome:** Summary Judgment Granted

Whether R&R Followed: Yes

For Race/Gender Discrimination Cases:

Race of Plaintiff: Japanese American

Religion of Plaintiff: Member of Nation of Islam

Long Summary:

The Court adopted the Magistrate’s Report & Recommendation, which is summarized below. The Court also dismissed John Does 1-10 under the fictitious party pleading rule.

Plaintiff, a Japanese American employee for Delta and a member of the Nation of Islam, filed suit on the above-mentioned claims. Defendant moved for summary judgment on all claims. The magistrate judge found that Plaintiff has abandoned her constitutional claims and her discrimination claims based on her race or national origin and recommended granting summary judgment. Therefore, the magistrate judge’s Report and Recommendation only addressed the merits of the Title VII religious discrimination.

Plaintiff works as a security officer at Delta’s corporate headquarters in Atlanta, Georgia. Plaintiff’s primary job responsibilities include verifying the credentials of employees and authorized guests at Delta’s headquarters. In December 2018, George Taylor, Delta’s Manager of Internal Security, received a report from another security manager that Plaintiff had accessed technical manuals for aircraft engines and other materials through Delta’s internal computer

network. According to the report, Plaintiff took notes on the specifications of Delta aircraft and placed them in a personal bag. Taylor and Security Investigator Pamela Fears reviewed security camera photographs overlooking Plaintiff's workstation, which showed that she had looked through Delta Technical Operations Manual with jet engine schematics. Afterward, Delta's corporate security department and cyber security team conducted a forensic examination of Plaintiff's computer to determine the extent of the information she had accessed. The investigation revealed that, starting on November 11, 2018, Plaintiff had accessed a large volume of information related to the Boeing 757 and 767 aircraft, which included complex information and technical specifications for engines, climate control, electrical and power systems, fuel systems, flight controls, communication systems, and other components. She also accessed documents relating to Delta's flight attendant program. The information that Plaintiff accessed did not relate to any function of her position as a security officer, and she was required to use her Delta-provided password to access it.

The magistrate judge recommended granting summary judgment on Plaintiff's religious discrimination claim because Plaintiff was unable to show adverse employment action because she was temporarily suspended with pay with a six-day delay in receiving her paycheck. The court noted that, in its view, the undisputed evidence shows that Plaintiff ultimately received pay for the time that she was suspended, resumed her employment without any change in title or benefits, and received no negative disciplinary consequences.

The magistrate judge also determined that, even if Plaintiff could satisfy the element of adverse employment action, she could not show that the employer's reason for termination was pretext. Plaintiff, according to the magistrate judge, made two arguments in an effort to prove pretext: (1) that a majority of the questions during her interview, during the investigation, were related to her husband and (2) that the information she accessed was publicly available. The magistrate judge stated that her arguments rested only on her speculation that her employer's investigation into her was because of her religion and was not enough to survive summary judgment. The magistrate judge recommended granting summary judgment on all claims.