

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WANDA McCANN-SMITH,

Plaintiff,

v.

ST. MARY'S HOSPITAL,

Defendant.

ORDER

11-cv-200-bbc

Pro se plaintiff Wanda McCann-Smith filed this lawsuit in which she alleged that defendant St. Mary's Hospital disciplined her and then terminated her because of her race and her complaints about the discriminatory treatment. After screening her complaint under 28 U.S.C. § 1915, I allowed her to proceed on claims under Title VII of the Civil Rights Act and 42 U.S.C. § 1981.

Defendant filed a motion for summary judgment, arguing that plaintiff had failed to exhaust her administrative remedies on all but one of her claims. With respect to her claim that defendant disciplined her because of her race in August 2009, defendant argued that plaintiff failed to adduce any evidence to support that claim.

In an opinion and order dated April 17, 2012, I granted defendant's motion for summary judgment with respect to plaintiff's claims that defendant disciplined her in August 2009 because of her race under both 42 U.S.C. § 1981 and Title VII of the Civil Rights Act

and her claim that defendant had terminated her because of her race and because she complained about race discrimination under Title VII. However, I denied the motion with respect to plaintiff's claim under Title VII and § 1981 that defendant disciplined her for an email she wrote because of her race because I concluded that she had exhausted her administrative remedies as to that claim. In addition, I noted that plaintiff was not required to exhaust administrative remedies with respect to her § 1981 claims.

Although I denied defendant's summary judgment motion as to some claims, I noted that there was no point in sending those claims to trial unless plaintiff actually had evidence to prove them. Accordingly, I gave plaintiff an opportunity to supplement the record with evidence to support the claims.

With respect to her claim that she was disciplined for writing an email because of her race, I directed plaintiff to submit evidence on the following issues:

- (a) the content of the email she wrote;
- (b) when she wrote and sent the email;
- (c) the discipline she received for writing the email;
- (d) the reasons defendant gave for disciplining her; and
- (d) all evidence supporting her belief that defendant disciplined her because of her race.

With respect to her claims that she was terminated because of her race and because she complained about race discrimination, I directed plaintiff to submit evidence showing that she *was* terminated and that she did not quit her job voluntarily. In addition, I directed

her to describe specifically the complaints of racial discrimination that she believes motivated defendant to fire her. Finally, I directed her to submit evidence on the following issues:

- (a) when she was terminated;
- (b) the reasons defendant gave for terminating her;
- (c) all evidence supporting her belief that she was fired because of her race or because she complained about race discrimination.

I instructed plaintiff how to prepare a sworn statement and to authenticate exhibits and I informed her that I would enter summary judgment in defendant's favor if she did not submit evidence that would permit a reasonable jury to find in her favor.

Plaintiff has responded to the April 17 order with a three page unsworn statement and various unauthenticated documents. Even if I treated these materials as admissible, nothing in them supports her claims. In her statement, she says that she believes strongly that defendant discriminated against her, but she does not identify any particular reasons for her belief. As I explained to plaintiff in the order screening her complaint, dkt. #4, at 3, plaintiff cannot rely on her personal beliefs to prove her claim; she must have evidence. Fane v. Locke Reynolds, LLP, 480 F.3d 534, 539 (7th Cir. 2007).

The documents plaintiff submitted consist mostly of emails, letters and other statements written by her in which she alleges that defendant discriminated against her. Again, in none of these statements does plaintiff identify specific evidence to support her belief. The other documents are either related to discipline that plaintiff received for violating defendant's policies or are responses to her allegations of discrimination. In none

of these documents does defendant suggest that it treated plaintiff differently because of her race or because she complained about race discrimination.

Because plaintiff has failed to submit any evidence to support her claims, I am granting summary judgment in favor of defendant.

After plaintiff submitted her materials, defendant filed a “motion to set briefing schedule” in which it asked for permission to file a response. I am denying that motion as moot.

ORDER

IT IS ORDERED that summary judgment is GRANTED to defendant St. Mary’s Hospital and that defendant’s motion for a briefing schedule, dkt. #38, is DENIED as moot. The clerk of court is directed to enter judgment in favor of defendant and close this case.

Entered this 11th day of June, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge