IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

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LORI BENSON,

Plaintiff,

v.

PER MAR SECURITY,

Defendant.

ORDER

06-C-198-C

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In an order dated December 29, 2006, I granted defendant's unopposed motion for summary judgment on plaintiff's claim that she was sexually harassed by a co-worker at defendant Per Mar Security. Now before the court is plaintiff's motion for reconsideration of that decision.[1] Because plaintiff has not suggested that the court committed any legal error by granting summary judgment in this case, the motion will be denied.

In her motion, plaintiff (who is pro se) expresses her disagreement with the court's finding that the acts of her co-worker and her supervisor did not rise to the level of sexual discrimination under Title VII. It is undisputed that on the night of November 30, 2005,

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[1]Plaintiff has not signed her motion or attached to it any affidavit of service on defendant. Nevertheless, in the interest of expediency, I will consider the motion and attach a copy of it to this order.

plaintiff and her co-worker Gary Pepin were assigned to work together. During the shift, Pepin turned off the lights in the guard shack, stating that it would make it easier to see vehicles approaching. While it was dark, Pepin took a laser scanner that was used to scan identification badges and ran the light from the ceiling, down the wall and down plaintiff's body to her waist, giggling or smirking as he did so, though he made no sexual statements or overtures toward plaintiff and did not focus the laser scanner on her chest or other private body parts. Plaintiff asserts that Pepin's behavior made her uncomfortable and "invaded [her] personal space."

Plaintiff has every right to ask others to respect whatever personal boundaries she establishes and to express displeasure if they fail to do so. However, the fact that her co-worker engaged in juvenile behavior does not mean that her employer, defendant Per Mar Security, violated any law. As I explained in the summary judgment order, "the law does not prohibit all verbal or physical harassment in the workplace." Silk v. City of Chicago, 194 F.3d 788, 804 (7th Cir. 1999) (citing Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75, 80 (1998)). "[S]imple teasing, offhand comments, and isolated incidents (unless extremely serious)" do not amount to discrimination actionable under Title VII. Faragher v. City of Boca Raton, 524 U.S. 775, 788 (1998). The Supreme Court has emphasized that Title VII does not protect employees against "the ordinary tribulations of the workplace, such as the sporadic use of abusive language, gender-related jokes, and occasional teasing."

Id. Many behaviors that are unprofessional, immature and inconsiderate are not illegal. The allegations plaintiff made against her co-worker fall into that category.

When defendant moved for summary judgment, plaintiff was provided with a memorandum for pro se litigants that explained the court's procedures for summary judgment motions and responses. The memorandum stated, "If you fail to respond to a motion for summary judgment, the court will accept the opposing party's proposed facts as undisputed." Plaintiff did not respond to defendant's motion, so all facts proposed by plaintiff were accepted as true. Although plaintiff does not suggest that Pepin's behavior was any more egregious than defendant portrayed it to be, she should understand that any missing facts in the court's summary judgment opinion were the result of her failure to respond to the motion. Because the law requires courts to enter judgment when a plaintiff fails to produce sufficient facts to support her claim, defendant was entitled to summary judgment in its favor.

ORDER

IT IS ORDERED that plaintiff Lori Benson's motion for reconsideration of the

court's December 29, 2006 order is DENIED.

Entered this 25th day of January, 2007.

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