IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

MEMORANDUM and ORDER
06-C-568-S

REGAL-BELOIT CORPORATION,

Defendant.

Plaintiff Equal Opportunity Commission filed the above entitled matter in the United States District Court for the Northern District of Illinois on August 8, 2006. On September 29, 2006 the Court transferred the case to this Court. Plaintiff EEOC claims that defendant Regal-Beloit Corporation terminated the employment of Edmund C. Meadows, Jr., in retaliation for activity protected under Title VII.

On February 13, 2007 defendant moved for summary judgment pursuant to Rule 56, Federal Rules of Civil Procedure, submitting proposed findings of fact, conclusions of law, affidavits and a brief in support thereof. This motion has been fully briefed and is ready for decision.

On a motion for summary judgment the question is whether any genuine issue of material fact remains following the submission by both parties of affidavits and other supporting materials and, if

not, whether the moving party is entitled to judgment as a matter of law. Rule 56, Federal Rules of Civil Procedure.

Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. An adverse party may not rest upon the mere allegations or denials of the pleading, but the response must set forth specific facts showing there is a genuine issue for trial. Celotex Corp. v. Catrett, 477 U.S. 317 (1986).

There is no issue for trial unless there is sufficient evidence favoring the non-moving party that a jury could return a verdict for that party. If the evidence is merely colorable or is not significantly probative, summary judgment may be granted. Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986).

FACTS

For purposes of deciding defendant's motion for summary judgment the Court finds that there is no genuine dispute as to any of the following material facts.

Plaintiff Equal Employment Opportunity Commission is the federal agency charged with administration and interpretation of Title VII. Defendant Regal-Beloit is a business located in Beloit, Wisconsin.

Defendant hired Edmund C. Meadows, Jr. as the human resources director for its mechanical group on April 8, 2002. From April 8, 2002 through March 13, 2003 Mr. Meadows was supervised by Gary Schuster. After March 13, 2003 he was supervised by Scott Schneier.

Mr. Schuster performed the first annual performance review for Mr. Meadows in March 2003 giving him am overall rating of fully competent. Mr. Schuster noted that Mr. Meadows needed to begin taking responsibility for his direct reports and should reserve his discussions to pertinent matters. Mr. Schuster also noted that Mr. Meadows had very good oral and written communication skills.

On the morning of May 9, 2003, Konrad Batog, a representative from the EEOC, contacted Mr. Meadows requesting access later that day to two personnel files that were at the time maintained at a Chicago, Illinois subsidiary of Regal-Beloit, Foote-Jones/Illinois Gear. The two requested files were the personnel files of Christopher Nowak and Bruce Zagurski who were at the time both employees of Foote-Jones and subjects of an EEOC investigation. Christopher Nowak had filed a claim of discrimination against the defendant on the basis of race and national origin.

Mr. Meadows instructed Bonnie Davey, a human resources coordinator at Foote-Jones, to produce the personnel file to Mr. Batog when he arrived at Regal-Beloit later that afternoon. Mr.

Meadows did not instruct Ms. Davey to first review the file for confidential information.

Mr. Batog found a confidential medical record attached to the back of a new hire form in Mr. Nowak's file. Mr. Batog advised Ms. Davey that the record should not have been in the personnel file. In his file notes Mr. Batog noted that he had found a medical record that should not have been in the personnel file.

Mr. Schneier learned of this incident one week later. Mr. Meadows was asked to prepare a written statement of Regal-Beloit's policies governing third party access to personnel records. The memo provided the following: (a) any request to review personnel files must be made in writing, specify the records to be reviewed and the purpose for the review; (b) requests to photocopy records also must be in writing; (c) written approval must be obtained before any files are disclosed; and (d) a human resources manager must be present at the time the files are reviewed.

In this memo Mr. Meadows stated that the reason for these policies is that "giving [governmental agencies] carte blanche to go through confidential files carries with it both privacy issues and NLRB issues if the division is unionized."

In the fall of 2003 Mr. Meadows learned that a salaried Regal-Beloit manager had an accident while at work but he did not notify Mr. Schneier or any other Regal-Beloit vice president. Mr.

Schneier did not learn about the accident until he later reviewed the worker's compensation log with Mr. Meadows.

In October 2003 Mr. Meadows represented Regal-Beloit in responding to a harassment complaint filed with the EEOC by Regal-Beloit employee Christopher Nowak. During an October 29, 2003 telephone conversation with EEOC representatives Eileen Sotag and Andrew Daley, Mr. Meadows told Ms. Sotag that her statement about a possible lawsuit "smacks of extortion." Ms. Sotag asked Mr. Meadows to apologize for this comment but he did not.

In February 2004 after Regal-Beloit had decided to close the Foote-Jones facility, Mr. Meadows failed to provide two employees with WARN notices 60 days before the facility was scheduled to close. This failure exposed Regal-Beloit to the potential of lawsuits by the two affected employees for civil penalties, back pay damages and attorneys' fees.

On March 2, 2004 Mr. Schneier met with Mr. Meadows to review a list of job performance problems including the failure to provide the WARN notices. Mr. Schneier also addressed Mr. Meadows' aggressiveness in dealing with others, excessive use of emails; written communications and his need to be right all the time.

Shortly after their meeting Mr. Schneier received an email from Mr. Meadows saying that he could refute each and every performance issue raised by Schneier, that with only the exception of the failure to provide the WARN notices he would not do anything

differently, that he was amazed that Mr. Schneier would question his abilities and that he would continue to write "CYA" memoranda in the future even though he knew Mr. Schneier disliked them.

On March 5, 2004 Mr. Schneier met with Mr. Meadows and expressed his frustration and disappointment with Mr. Meadows' memorandum. Duke Sims was at this meeting, On March 12, 2004 Mr. Schneier decided to terminate Mr. Meadows. On March 31, 2004 defendant Regal-Beloit terminated Mr. Meadows' employment.

On approximately May 21, 2004 Mr. Schneier received a copy of a letter from Mr. Meadows to Regal-Beloit dated May 19, 2004 demanding that he be given additional severance pay. In that letter he referred to an incident that had occurred at the Foote-Jones facility in June 2003. He had attended a meeting at Foote-Jones with Ms. Davey, Duke Sims and Kenn Burns. Burns made a racially offensive remark directed at an employee that was not present. Mr. Meadows, Ms. Davey and Mr. Sims all agreed that the statement was offensive and inappropriate. Mr Sims reprimanded Mr. Burns the following day.

Mr. Schneier was not aware of this situation at the time he made the decision to terminate Mr. Meadows' employment.

MEMORANDUM

Plaintiff EEOC claims that Mr. Meadows was terminated by the defendant Regal-Beloit Corporation in retaliation for his protected

activity. Defendant moves for summary judgment on plaintiff's claim.

In its opposition brief plaintiff states that for the purposes of this motion it will proceed using the direct method of proof. Under this direct method, plaintiff must show that Mr. Meadows engaged in statutorily protected activity; suffered an adverse employment action and that there is a casual connection between the two. See Culver v. Gorman & Co., 416 F.3d 540, 545 (7th Cir. 2005).

The first issue is whether Mr. Meadows engaged in protected activity. EEOC alleges that Mr. Meadows provided personnel files to the EEOC for an investigation in May 2003 which was protected activity. It also alleges that in June 2003 Mr. Meadows had objected to a racially offensive comment made by Kenn Burns in a meeting about a person that was not present. For purposes of deciding defendant's motion for summary judgment the Court will accept that these two incidents constitute protected activity.

It is undisputed that plaintiff was terminated. The Court must determine whether there was a causal connection between the protected activity and the termination. In Wells v. Unisorce Worldwide, Inc., 289 F.3d 1001, 1008 (7th Cir. 2002), the Corut discussed the third prong of the analysis as follows:

> In order to establish a causal link between the protected activity and an adverse employment action, a plaintiff must demonstrate that the employer would not have taken the alleged adverse action "but for" the plaintiff's protected activity.

It is undisputed that the protected activity of Mr. Meadows occurred in May and June 2003 and that he was terminated on March 31, 2004 almost a year later.

It is also undisputed that in the fall of 2003 Mr. Schneier learned that Mr. Meadows had failed to notify him of an accident that a Regal-Beloit manager sustained at work. In October 2003 Mr. Meadows told an EEOC representative that a possible lawsuit "smacks of extortion". In February 2003 Mr. Meadows failed to provide two employees with WARN notices 20 days before a facility was scheduled to close.

On March 4, 2004 Mr. Schneier met with Mr. Meadows to discuss these problems. In response plaintiff wrote a memorandum refuting the performance issues except for his failure to issue the Warn notices. He also stated that he would continue to write "CYA" memoranda in the future even though Mr. Schneier disliked them. Mr. Schneier was disappointed with Mr. Meadows' response. On March 12, 2004 Mr. Schneier decided to terminate Mr. Meadows.

There is no genuine issue of material fact that Mr. Meadows would have been terminated for his performance issues and his response to the March 4, 2004 meeting regardless of his protected activity that occurred a year earlier. Plaintiff has not shown that Mr. Meadows was terminated because of his protected activity. Accordingly, defendant is entitled to judgment in its favor on plaintiff's retaliation claims.

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ORDER

IT IS ORDERED that defendant's motion for summary judgment is GRANTED.

IT IS FURTHER ORDERED that judgment be entered in favor of defendant against plaintiff DISMISSING its complaint and all claims contained therein.

Entered this day 21st day of March, 2007.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge