

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-10351

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT December 9, 2008 THOMAS K. KAHN CLERK

D. C. Docket No. 06-20418 CV-WJZ

RAMON SABATIER,

Plaintiff-Appellant,

versus

SUNTRUST BANK,
a Georgia Company,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(December 9, 2008)

Before DUBINA, BLACK and FAY, Circuit Judges.

PER CURIAM:

Plaintiff/Appellant Ramon Sabatier (“Sabatier”) appeals the district court’s order granting summary judgment to Defendant/Appellee SunTrust Bank (“Bank”) on Sabatier’s claims for retaliation under the Fair Labor Standards Act (“FLSA”) and the Florida Whistle-Blower Act. Sabatier also appeals the district court’s order granting the Bank’s motion for reconsideration, the district court’s order denying Sabatier’s motion to reopen discovery, and the district court’s order denying Sabatier’s motion to recuse the district judge.

The issues presented on appeal are:

1. Whether the district court abused its discretion in granting the Bank’s motion for reconsideration.
2. Whether the district court erred in granting the Bank’s motion for summary judgment.
3. Whether the district court abused its discretion in denying as moot Sabatier’s motion to reopen discovery.
4. Whether the district court abused its discretion in denying Sabatier’s motion for recusal.

We review the district court’s grant of a motion for reconsideration for abuse of discretion. *See Makro Capital of Am., Inc. v. UBS AG*, 543 F.3d 1254, 1261 (11th Cir. 2008) (addressing the denial of a motion for reconsideration).

This court reviews *de novo* the district court's grant of summary judgment, viewing all issues of material fact in favor of the non-movant. *Beshers v. Harrison*, 495 F.3d 1260, 1265 (11th Cir. 2007).

We review for abuse of discretion a district court's decisions concerning discovery. *Artistic Entm't, Inc. v. City of Warner Robins*, 331 F.3d 1196, 1202 (11th Cir. 2003); *cf. Shuford v. Fidelity Nat'l Prop. & Cas. Ins. Co.*, 508 F.3d 1337, 1341 (11th Cir. 2007) (reviewing for abuse of discretion a district court's order on motion for leave to conduct limited discovery under Rule 56(f)).

We also review for abuse of discretion a district court's order on a motion to recuse. *United States v. Bailey*, 175 F.3d 966, 968 (11th Cir. 1999).

After reviewing the record and reading the parties' briefs, we first conclude that the district court correctly granted reconsideration of its order denying summary judgment because it earlier committed legal error in refusing to consider the affidavit of decision-maker Conchita Rodriguez, which was proffered by the Bank to establish the Bank's non-retaliatory reasons for the adverse employment actions at issue.

Second, we conclude from the record that the district court correctly granted the Bank's motion for summary judgment. There were no genuine issues of

material fact. Also, there was no error committed in relying on the testimony of interested witnesses (the Bank's employees) in granting summary judgment.

Third, even if we assume, *arguendo*, that Sabatier did establish a *prima facie* case, he still cannot prevail because the Bank presented legitimate, nonretaliatory reasons for the employment actions taken, and Sabatier failed to demonstrate that those actions were merely a pretext for discrimination.

Finally, we see no abuse of discretion in denying Sabatier's motion to reopen discovery to take the deposition of his former supervisor, Juan Arana. We also see no abuse of discretion in the district court's decision to deny Sabatier's motion to recuse. Accordingly, for the above-stated reasons, we affirm the district court's judgment and orders.

AFFIRMED.