NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted February 8, 2024*
Decided February 9, 2024

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 23-1973

KENNETH DEL SIGNORE,
Plaintiff-Appellant,

v.

NOKIA OF AMERICA CORPORATION, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 20 C 4019

Jorge Alonso,
Judge.

O R D E R

Kenneth Del Signore sued Nokia of America Corporation and numerous managers including Christy Gliori, alleging that they retaliated against him and terminated his employment in violation of several whistleblower-protection statutes. The district court dismissed some of Del Signore's claims and quashed a discovery

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

request directed at Gliori's husband. The court later granted the defendants' motion for summary judgment and then denied Del Signore's motion to alter or amend the judgment. Del Signore appeals these decisions, and we affirm.

While working for Nokia as an engineer, Del Signore began to suspect that Verizon Communications, a company for which Nokia manufactured certain technology, was overstating the performance of its wireless network. He eventually proposed a project to measure network performance more accurately. Although he initially received positive feedback, he came to believe that Nokia stopped supporting, then canceled, the project.

Suffering from work-related stress, Del Signore took time off. Gliori, a case manager in the human resources department, recommended that Del Signore seek psychiatric treatment to establish that he was temporarily unable to perform his essential job functions, as required by Nokia's short-term disability policy. Del Signore visited Kara Mulligan, a physician's assistant with a psychiatric specialty, and he obtained the necessary support for a fixed period of leave.

During his time off, Del Signore filed two internal ethics complaints with Nokia and a whistleblower complaint with the federal Occupational Safety and Health Administration (OSHA). In these complaints, he alleged that Nokia and Verizon were colluding to inflate the measurements of the performance of Verizon's wireless network. This, he said, caused them to overbill a fund established by the federal government to promote universal access to telecommunications services. (An administrative law judge would later find in favor of Nokia in the administrative action initiated by Del Signore's OSHA complaint.)

As part of its disability policy, Nokia required that Del Signore provide medical documentation showing either that he was fit to return to work at the end of his initial period of leave or that he was improving enough to warrant a continued—but finite—leave of absence. Del Signore was warned that if he failed to submit evidence before his leave expired, his employment would be terminated. Del Signore did not submit anything, so Gliori contacted his medical provider, Mulligan. Gliori took contemporaneous notes of their conversation and recorded that Mulligan described Del Signore as "psychotic and delusional" and unable to return to work in his current state. Mulligan later submitted an assessment to Nokia in which she stated that Del Signore was currently unfit for work and that she did not know how long his issues would persist. Gliori then scheduled an independent medical examination for Del Signore and offered him a leave of absence while the results were pending, but he stated that he

would not attend the examination. Nokia terminated Del Signore's employment after his initial period of short-term disability leave expired.

Del Signore sued Nokia and Gliori, among others, in federal court. Del Signore alleged that Nokia retaliated against him for his whistleblowing activity in violation of the False Claims Act, 31 U.S.C. § 3730(h); the Illinois False Claims Act, 740 ILCS 175/4(g); the Sarbanes–Oxley Act, 18 U.S.C. § 1514A; and the Illinois Whistleblower Act, 740 ILCS 174/15. He also asserted a claim under the Illinois Whistleblower Act against Gliori individually. As relevant to this appeal, the district court granted Nokia's and Gliori's motions to dismiss (1) a retaliation claim against Nokia under the Consumer Financial Protection Act because neither Nokia nor Del Signore was covered by the relevant provision of the Act; and (2) whistleblower retaliation claims against Gliori under the federal False Claims Act and the Illinois False Claims Act because individuals cannot be liable under either statute.

After discovery—during which the district court granted Gliori's motion to quash a discovery request directed at her husband—Nokia and Gliori moved for summary judgment. The court granted their motion. The court determined that many of the actions that Del Signore gave as examples of materially adverse employment actions did not qualify, and no evidence suggested that Del Signore's whistleblowing activity caused, or contributed to, the decision to terminate his employment. Instead, the undisputed evidence showed that Nokia fired Del Signore because he failed to provide required information or cooperate with Nokia's attempts to discern his ability to return to work before the end of his allotted leave.

Within 28 days of the court's summary judgment ruling, Del Signore moved to alter or amend the judgment under Rule 59(e) of the Federal Rules of Civil Procedure. He argued that the district court failed to consider evidence contradicting Gliori's notes about her conversation with Mulligan. The court denied the motion because the accuracy or credibility of Gliori's notes was immaterial: the evidence was undisputed that Nokia fired De Signore because he failed to comply with the leave policy by demonstrating eligibility for more leave before the original period expired.

On appeal, Del Signore challenges the dismissal of certain claims, the denial of his discovery request, the entry of summary judgment in favor of the defendants, and the denial of his Rule 59(e) motion. The appellees assert that we have jurisdiction to review only the district court's summary judgment order because Del Signore did not identify any other rulings in his notice of appeal. But a notice of appeal need not designate specific orders that merge into the judgment. *See* FED. R. APP. P. 3(c)(4);

see Walton v. Bayer Corp., 643 F.3d 994, 997–98 (7th Cir. 2011) (interlocutory orders merge into final judgment). And Del Signore filed a timely notice of appeal within 30 days of the denial of his timely Rule 59(e) motion, so he did not need to file an amended notice of appeal to challenge the post-judgment order. *See* FED. R. APP. P. 4(a)(4)(B)(ii).

Del Signore's challenges to the dismissal of some of his claims are unpersuasive. First, he argues that the district court erred in dismissing his claims of retaliation under the Consumer Financial Protection Act. *See* 12 U.S.C. § 5567(a). But Del Signore does not meaningfully engage with the court's reasoning or try to establish that he is a covered employee under 12 U.S.C. § 5567(b). He therefore gives us no reason to reject the district court's conclusion that he is not. *See Webster v. CDI Ind., LLC*, 917 F.3d 574, 578 (7th Cir. 2019) (appellant who does not address rulings and reasoning of district court forfeits what arguments he might have).

Second, Del Signore challenges the dismissal of his retaliation claim against Gliori under the False Claims Act and argues that we should hold that the statute provides for individual liability. But this court "give[s] effect to the clear meaning of statutes as written," *Star Athletica, L.L.C. v. Varsity Brands, Inc.*, 580 U.S. 405, 414 (2017) (citing *Estate of Cowart v. Nicklos Drilling Co.*, 505 U.S. 469, 476 (1992)), and Del Signore does not explain how the language of 31 U.S.C. § 3730(h) creates personal liability for a manager involved in an allegedly retaliatory discharge.[1]

Third, to the extent that Del Signore contends that he should have been permitted to obtain discovery from Gliori's husband about what Gliori might have said about his complaints, his leave, or his termination, he again fails to develop, and thus forfeits, his argument. *See Webster*, 917 F.3d at 578. Even so, we see no possible abuse of discretion in the district court prohibiting this discovery.

Del Signore next argues that summary judgment was unwarranted because a reasonable jury could find that Nokia fired him for his whistleblowing activity, but he introduced no evidence of causation beyond his own speculation. We review the

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[1]The district court relied on *United States ex rel. Sibley v. A Plus Physicians Billing Serv., Inc.*, No. 13 C 7733, 2015 WL 4978686 (N.D. Ill. Aug. 20, 2015) and two subsequent decisions by our sister circuits that reached the same conclusion. *See United States ex rel. Strubbe v. Crawford Cty. Mem'l Hosp.*, 915 F.3d 1158, 1167 (8th Cir. 2019); *Howell v. Town of Ball*, 827 F.3d 515, 529–30 (5th Cir. 2016). Without a more developed argument from Del Signore, we need not address the matter further.

decision on summary judgment de novo and examine the record in the light most favorable to Del Signore, drawing reasonable inferences in his favor. *See Donaldson v. Johnson & Johnson*, 37 F.4th 400, 405 (7th Cir. 2022).

In challenging the conclusion that he failed to produce evidence connecting his whistleblowing activity to his discharge, Del Signore now asserts that Nokia would have declared him unfit to return to work and then terminated his employment even if he had completed the examination. By this, perhaps he means to argue that the reason for firing him was pretextual and that the requested examination was a fig leaf for an unlawful motive. But Del Signore's failure to proceed with the examination means he cannot prove this theory. Having skipped the exam, Del Signore must rely on speculative inferences unsupported by admissible evidence, which are insufficient to defeat a motion for summary judgment. *Johnson v. Advoc. Health & Hosps. Corp.*, 892 F.3d 887, 894 (7th Cir. 2018).

Indeed, as the district court explained, there is undisputed evidence that cuts against the suggestion of pretext: Nokia referred other employees on leave to independent medical examinations and terminated other employees for failing to submit medical documentation of their fitness to return to work after disability leave. And Nokia and Gliori had no evidence that Del Signore was fit to return to work: Del Signore's own medical provider submitted an assessment stating that he was unfit indefinitely, and Del Signore provided Nokia with no other information.

As for Del Signore's argument that Nokia had to show by clear and convincing evidence that it would have taken the same adverse actions absent his whistleblowing activity, as required by the anti-retaliation provision of the Sarbanes–Oxley Act, he confuses the order of operations. *See Verfuerth v. Orion Energy Sys., Inc.*, 879 F.3d 789, 793 (7th Cir. 2018). The burden of proof shifts to the employer if an employee establishes a prima facie case. *Id.* Del Signore never did so because he lacked evidence that his whistleblowing activity was a contributing factor to an adverse employment action.

Finally, in challenging the denial of his post-judgment motion, Del Signore does not demonstrate error in the district court's decision, which we review for an abuse of discretion. *Cincinnati Life Ins. Co. v. Beyrer*, 722 F.3d 939, 955 (7th Cir. 2013). A motion under Rule 59(e) must introduce new evidence or demonstrate a manifest error of law or fact. *Id.* at 954–55. Here, Del Signore contends that the court had failed to consider Mulligan's medical notes, which he says contradict Gliori's report about her conversation with Mulligan. But this evidence does not create a material dispute of fact. Whether or not Gliori's notes were accurate, Mulligan later told Nokia in writing that

Del Signore was not fit for duty, and he submitted no evidence to the contrary. The district court could have discarded all evidence of Del Signore's unfitness, and yet he still would have violated the policy by failing to provide Nokia with information justifying further disability leave before the original period expired. Del Signore's motion therefore did not refer to any evidence that his whistleblowing activity was a contributing factor in Nokia's termination of his employment.

AFFIRMED