NONPRECEDENTIAL DISPOSITION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 May 2, 2024*
Decided May 6, 2024

Before

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-2969

HELEN ALLEN,
Plaintiff-Appellant,

v.

FORD MOTOR COMPANY,
Defendant-Appellee.

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

No. 21-cv-962

Mary M. Rowland,
Judge.

O R D E R

Helen Allen appeals from a summary judgment rejecting her claims of employment discrimination against her former employer, Ford Motor Company. The district judge determined that her claims failed based on a failure of proof. We affirm.

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* We have agreed to decide this 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).

At summary judgment, Allen, in responding to Ford's statement of material facts, failed to comply with Rule 56.1 of the Local Rules, so the district judge accepted Ford's factual presentation. Because Allen does not challenge this ruling, we likewise rely upon Ford's version of the facts. *See Gnutek v. Ill. Gaming Bd.*, 80 F.4th 820, 827 (7th Cir. 2023). We do, however, present those facts in the light most favorable to Allen, the party opposing summary judgment. *See Skiba v. Ill. Cent. R.R. Co.*, 884 F.3d 708, 717 (7th Cir. 2018).

From 2012 to 2016, Allen worked as a plumber and pipefitter at Ford's assembly plant in Chicago. Throughout that time, Allen filed dozens of complaints about mistreatment by fellow employees and superiors. Two complaints are relevant to this appeal. First, in 2012, Allen complained to the facility's labor-relations office that she had become a "bull's-eye" since emailing a production manager to express her opinion that the plant was poorly run. Allen explained that her superintendent had been "very harsh" with her, denying her requests for training and breaks, and "micromanag[ing]" her (for example, by "insisting" she carry a radio at work). Allen also complained that the superintendent discriminated against her because she is a Black, Muslim female. But when Ford investigated the complaint, Allen acknowledged that coworkers also were subject to similarly harsh treatment and that she could not pinpoint instances of discriminatory behavior. Labor relations closed this complaint for lack of evidence. In her second complaint relevant to this appeal, in 2015, Allen told labor relations that a female coworker had threatened her with profane language while they worked together. Labor relations investigated, corroborated the incident, and suspended the coworker. Allen retired from Ford for medical reasons in 2020.

Allen first sued Ford in 2014, seeking class certification for female employees who asserted that they experienced sexual harassment at two of Ford's Chicago plants. A district judge twice denied certification, and Allen's claims were severed and transferred to another judge. Allen's operative complaint asserted several claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2(a)(1), 2000e-3(a), (hostile work environment, retaliation for engaging in protected activity under the First Amendment, harassment based on race and sex, discrimination based on race and sex). Allen also asserted a race-discrimination claim under 42 U.S.C. § 1981 and a state-law claim of assault against Ford.

Ford moved for summary judgment, arguing, first, that Allen lacked evidence sufficient for a jury to return a verdict for her on any of her federal claims and, second, that her state-law assault claim was statutorily preempted by the Illinois Workers'

Compensation Act, 820 ILCS 305/5(a). Allen, however, ran afoul of the local rules by failing to provide a statement of facts that cited record evidence to dispute Ford's proposed facts and, in many instances, stating no reason for disputing any of Ford's stated facts. *See* N.D. ILL. R. 56.1(e)(3); (d)(2), (4).

The district judge granted Ford's motion for summary judgment. The judge accepted as undisputed Ford's proposed statement of facts because Allen's response and her statement of additional facts did not comply with the local rules. As for the merits, the judge concluded, first, that Allen lacked admissible evidence from which a jury could infer that she had been subjected to harassment or a hostile work environment for purposes of Title VII. The judge noted that Allen premised these claims mainly on inadmissible hearsay statements. Regarding her discrimination claims, Allen lacked evidence that her race or gender contributed to suspensions she received in 2012 and 2013. And though she complained of other allegedly discriminatory conduct (being micromanaged, required to carry a radio, and denied lunch breaks), such actions did not amount to materially adverse employment actions. Allen's retaliation claim similarly failed, the judge determined, because she could not identify a materially adverse employment action that was causally linked to her complaints. Finally, the judge concluded that Allen's assault claim was preempted by the Illinois Workers' Compensation Act, 820 ILCS 305/5(a), 305/11, which bars employees from suing an employer for intentional torts that the employer did not expressly authorize.

On appeal, Allen contends for the first time that the judge erred by excluding statements she had offered to support her harassment and hostile-work-environment claims—statements she believes were admissible under the residual exception to the hearsay rule. *See* FED. R. EVID. 807. But she waived that argument by not raising it in the district court. *See Fields v. City of Chicago*, 981 F.3d 534, 547 (7th Cir. 2020). Regardless, she does not explain how her excluded statements qualify for the exception, which would require her to establish that the statements had circumstantial guarantees of trustworthiness and were more probative than other evidence obtainable through reasonable efforts. *See id.*; *see also United States v. Wehrle*, 985 F.3d 549, 555 (7th Cir. 2021).

Next, Allen argues that the judge, in granting summary judgment on her retaliation and discrimination claims, overlooked the 2012 complaint she filed with Ford's labor-relations office over the mistreatment she believes she received (intimidation, micromanagement, denial of breaks and training) because she is a Black, Muslim woman who criticized plant operations. But nothing in this complaint suggests that a retaliatory motive or her race or gender caused the alleged conduct. *See Lesiv v. Ill.*

Cent. R.R. Co., 39 F.4th 903, 915 (7th Cir. 2022) (retaliation); *Purtue v. Wis. Dep't of Corr.*, 963 F.3d 598, 602 (7th Cir. 2020) (discrimination). Any speculation about her superintendent's ill motives is too conclusory to create an issue of material fact. *See Johnson v. Advoc. Health & Hosp. Corp.*, 892 F.3d 887, 899 (7th Cir. 2018).

Allen also asserts that the judge, in granting summary judgment on her hostile-work-environment claim, overlooked her 2015 complaint about a coworker speaking to someone in profane, threatening language. But the judge did address the episode underlying this complaint and appropriately concluded that a jury could not reasonably infer the statements were directed at Allen—the suggestion that they were was based on inadmissible hearsay. *Allen v. Ford Motor Co.*, No. 21-cv-962, 2023 WL 5830685, *5–6 (N.D. Ill. Sept. 8, 2023). Moreover, the coworker's statements—even if directed at Allen—were not enough to establish severe or pervasive conduct rising to the level of a hostile work environment. *See Boss v. Castro*, 816 F.3d 910, 920–21 (7th Cir. 2016); *Nichols v. Mich. City Plant Plan. Dep't*, 755 F.3d 594, 602 (7th Cir. 2014).

Finally, Allen disagrees with the judge's conclusion that her state-law claim is preempted by the Illinois Workers' Compensation Act. That statute preempts intentional tort claims against an employer unless the employer directs or expressly authorizes the intentional tort. *See Meerbrey v. Marshall Field and Co., Inc.*, 564 N.E.2d 1222, 1226 (Ill. 1990). Allen concedes that Ford did not authorize someone to assault her but maintains that Ford "played a pivotal role in fostering an environment where [assaults were] allowed to persist." But she does not develop this argument with references to record evidence or legal authority.

We have considered Allen's remaining arguments, but none has merit.

AFFIRMED