

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 16-10192
Non-Argument Calendar

D.C. Docket No. 1:14-cv-02263-ELR

ANTONIA N. OKONKWO,

Plaintiff-Appellant,

versus

THE CALLINS LAW FIRM, LLC,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

(September 15, 2016)

Before HULL, MARCUS, and EDMONDSON, Circuit Judges.

PER CURIAM:

Plaintiff Antonia Okonkwo, a licensed attorney appearing pro se, appeals the district court's grant of summary judgment in favor of her former employer, The Callins Law Firm, LLC. Briefly stated, Plaintiff seeks to recover overtime wages under the Fair Labor Standards Act, 29 U.S.C. § 201 ("FLSA"). No reversible error has been shown; we affirm.

We review de novo the district court's grant of summary judgment, viewing all evidence and drawing all reasonable inferences in favor of the non-moving party. Holloman v. Mail-Well Corp., 443 F.3d 832, 836-37 (11th Cir. 2006). Summary judgment is proper "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). Although we ordinarily construe liberally pro se pleadings, this rule does not apply when the pro se litigant is a licensed attorney. Olivares v. Martin, 555 F.2d 1192, 1194 n.1 (5th Cir. 1977).

Broadly speaking, the FLSA provides that employees are entitled to receive overtime compensation for hours worked in excess of forty hours a week. 29 U.S.C. § 207(a)(1). But the Act exempts expressly from the FLSA's overtime compensation requirement employees who are "employed in a bona fide . . . professional capacity." See 29 U.S.C. § 213(a)(1).

Congress has delegated to the Department of Labor (“DOL”) broad authority to “define and delimit” the scope of the FLSA’s bona fide professional capacity exemption. See id.; Auer v. Robbins, 117 S. Ct. 905, 909 (1997). In pertinent part, the DOL has defined the term “employee employed in a bona fide professional capacity” to include “[a]ny employee who is the holder of a valid license or certificate permitting the practice of law . . . and is actually engaged in the practice thereof.” 29 C.F.R. 541.304(a)(1).

The parties do not dispute that, at all times pertinent to this appeal, Plaintiff was both licensed to practice law and was in fact engaged in the practice of law as an associate attorney at Defendant’s law firm. Plaintiff falls clearly within the definition of an “employee employed in a bona fide professional capacity” and is, thus, exempt from the FLSA’s overtime compensation requirements. See id.

We reject Plaintiff’s argument that, as a matter of policy, she should be deemed a non-exempt employee solely because she was paid an hourly wage instead of on a “salary basis,” as required under 29 C.F.R. § 541.300(a)(1). The DOL has provided expressly that the requirements of section 541.300 do not apply to licensed attorneys. See 29 C.F.R. § 541.304(d). Instead, licensed attorneys are exempt from the FLSA’s overtime compensation requirements irrespective of their pay structure. Because nothing evidences that the DOL’s interpretation of the FLSA is “arbitrary, capricious, or manifestly contrary to the statute,” we defer to

the DOL's interpretative regulation as controlling. See Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 104 S. Ct. 2778, 2781-82 (1984).

Defendant was entitled to judgment as a matter of law on Plaintiff's FLSA claim. We affirm the district court's grant of summary judgment in favor of Defendant, and the district court's denial of Plaintiff's cross-motion for summary judgment.

Having concluded that Plaintiff was unentitled to relief on her only federal claim, the district court abused no discretion in declining to exercise supplemental jurisdiction over Plaintiff's remaining state law claims. See 28 U.S.C. § 1367(c)(3); Raney v. Allstate Ins. Co., 370 F.3d 1086, 1089 (11th Cir. 2004) ("encourag[ing] district courts to dismiss any remaining state claims when . . . the federal claims have been dismissed prior to trial."). In addition, because Defendant prevailed on its motion for summary judgment, the district court abused no discretion in awarding costs to Defendant. See Fed. R. Civ. P. 54(d)(1); Manor Healthcare Corp., v. Lomelo, 929 F.2d 633, 639 (11th Cir. 1991) (recognizing that Rule 54(d) "creates a presumption in favor of awarding costs to the prevailing party.").

AFFIRMED.