

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-2043

W. SHEROD WILLIAMS, Ph.D.,

Plaintiff - Appellant,

versus

UNITED STATES OF AMERICA,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. William M. Nickerson, Senior District Judge. (1:05-cv-02216-WMN)

Submitted: July 9, 2007

Decided: December 7, 2007

Before NIEMEYER and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Ari Taragin, Michael J. Snider, SNIDER & ASSOCIATES, LLC, Baltimore, Maryland, for Appellant. Rod J. Rosenstein, United States Attorney, Allen F. Loucks, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

W. Sherod Williams filed an employment discrimination action against the Department of Veterans Affairs ("Defendant"), asserting that he was subjected to a hostile work environment based upon race and retaliation and that Defendant retaliated against him. Defendant filed a motion to dismiss or, in the alternative, for summary judgment. The district court granted Defendant's motion to dismiss and dismissed the action. "We review de novo a district court's dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6)." Sec'y of State for Def. v. Trimble Navigation Ltd., 484 F.3d 700, 705 (4th Cir. 2007). "[W]hen ruling on a defendant's motion to dismiss, a judge must accept as true all of the factual allegations contained in the complaint." Erickson v. Pardus, 127 S. Ct. 2197, 2200 (2007) (citations omitted). To survive a Rule 12(b)(6) motion, "[f]actual allegations must be enough to raise a right to relief above the speculative level" and have "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 127 S. Ct. 1955, 1965, 1974 (2007).

With these standards in mind, we have reviewed the record on appeal and conclude that the district court erred in dismissing Williams' complaint for failure to state a claim. See Bagir v. Principi, 434 F.3d 733, 745-47 (4th Cir.) (discussing elements of hostile work environment and retaliation claims), cert. denied, 127

S. Ct. 659 (2006). Accordingly, we vacate the district court's order and remand for further proceedings. We express no view on the ultimate disposition of Williams' claims. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED