

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1491

VERNELL B. LLOYD,

Plaintiff - Appellant,

v.

NEW HANOVER REGIONAL MEDICAL CENTER,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, District Judge. (7:06-cv-00130-D)

Argued: October 27, 2010

Decided: November 16, 2010

Before MOTZ and KEENAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

ARGUED: Geraldine Sumter, FERGUSON, STEIN, CHAMBERS, GRESHAM & SUMTER, PA, Charlotte, North Carolina, for Appellant. James Bernard Spears, Jr., OGLETREE, DEAKINS, NASH, SMOAK & STEWART, PC, Charlotte, North Carolina, for Appellee. **ON BRIEF:** Lindsay M. Peed, OGLETREE, DEAKINS, NASH, SMOAK & STEWART, PC, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Vernell B. Lloyd, an African American registered nurse, brought this action against her former employer, New Hanover Regional Medical Center. Lloyd alleges that the medical center discriminated against her and terminated her employment because of her race and in retaliation for her protected activity in violation of Title VII, 42 U.S.C. § 2000e et seq. (2006) and 42 U.S.C. § 1981 (2006). She also alleges state law claims. The district court granted the medical center summary judgment on all of Lloyd's claims. We affirm.

I.

In May 2004, after Lloyd had worked in various units within the medical center for approximately twenty years, she transferred to a new unit. Lloyd began experiencing performance problems for which her supervisors disciplined her. In March 2007, Lloyd unsuccessfully sought a promotion in this same unit. Her record of discipline made her ineligible for promotion under the medical center's written promotion policy.

In May 2007, the medical center's chief nurse executive, Mary Ellen Bonczek, transferred Lloyd to another unit to give her a "fresh start" with new managers and coworkers. Again, Lloyd experienced performance problems. On July 5, 2007, her supervisor, Barbara Buechler, after issuing Lloyd several

progressive disciplinary measures, recommended that Bonczek discharge Lloyd. Bonczek accepted the recommendation and terminated Lloyd's employment. Throughout her tenure on both units, Lloyd filed various grievances with the medical center alleging that her employer mistreated her because of her race.

Lloyd contends that the medical center took disciplinary measures against her, failed to promote her, and terminated her employment because of her race and in retaliation for filing multiple grievances.

II.

The district court carefully considered the facts in the record and concluded that Lloyd failed to demonstrate a genuine issue of material fact that the medical center's proffered reasons for terminating her employment and failing to promote her were pretextual. As to her termination claim, the district court concluded that Lloyd offered no evidence that "Buechler's honest belief concerning Lloyd's discipline and performance problems" was pretext for discrimination or retaliation. In regard to Lloyd's failure to promote claim, the district court found that Lloyd failed to raise a genuine issue of material fact that the medical center's discipline rule, which made Lloyd ineligible for the promotion, was pretextual. The district court also concluded that Lloyd failed to establish a prime

facie case of discriminatory discipline because she failed to "show that she was similarly situated with a comparator who received less severe discipline from the same supervisor for essentially the same conduct." In light of these rulings, the district court also granted summary judgment on Lloyd's state law claims for negligent retention and supervision.¹

Lloyd filed a timely appeal. We review a grant of summary judgment de novo, examining the facts in the light most favorable to the nonmoving party. Anderson v. Russell, 247 F.3d 125, 129 (4th Cir. 2001).

III.

After having the benefit of oral argument and carefully reviewing the briefs, record, and controlling legal authorities, we conclude that the district court's analysis was correct.² Accordingly, we affirm on the basis of the district court's well reasoned opinion. See Vernell B. Lloyd v. New Hanover Regional Medical Center, No. 7:06-CV-130-D (E.D.N.C. Mar. 31, 2009).

AFFIRMED

¹ In addition, the district court granted summary judgment on Lloyd's claim of "hostile work environment on the basis of retaliation." Lloyd does not challenge this ruling on appeal.

² Lloyd also challenges certain evidentiary rulings of the district court; we find no error in those rulings.