

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-1475

RALPH STEWART, JR.,

Plaintiff - Appellant,

v.

VIRGINIA COMMONWEALTH UNIVERSITY; VCU/VCU HEALTH SYSTEM; VCU MEDICAL CENTER/MEDICAL COLLEGE OF VIRGINIA FOUNDATION; MCV/MCV PHYSICIANS; MCV HOSPITALS AUTHORITY; JOHN DUVAL; MARIA CURRAN; DONNA STEIGLEDER; MARIE GREENWOOD; SHARON JAHN; DEBORAH SLAYDEN; PETER RING; DUANE JACKSON; TERI KUTTENKULER; DAVID HOULETTE; ANTOINETTE LIGHT,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Henry E. Hudson, District Judge. (3:09-cv-00738-HEH)

Submitted: February 28, 2011

Decided: March 4, 2011

Before TRAXLER, Chief Judge, and KING and DIAZ, Circuit Judges.

Affirmed in part, vacated in part, and remanded by unpublished per curiam opinion.

Ralph Stewart, Jr., Appellant Pro Se. Gregory Clayton Fleming, Senior Assistant Attorney General, Richmond, Virginia, Jean Freeman Reed, General Counsel, VCU HEALTH SYSTEM AUTHORITY, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ralph Stewart, Jr., appeals the district court's order dismissing his civil complaint filed pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.A. §§ 2000e to 2000e-17 (West 2005 & Supp. 2010) ("Title VII"), and the Americans with Disabilities Act of 1990, 42 U.S.C.A. §§ 12101 to 12213 (West 2005 & Supp. 2010) ("ADA"). We have reviewed the record and find no reversible error, with the exception of Stewart's claim alleging Title VII violations against Virginia Commonwealth University ("VCU"), VCU Health System, Medical College of Virginia Foundation, and MCV Hospitals Authority. Accordingly, we affirm those portions of the judgment for the reasons stated by the district court. See Stewart v. VCU, No. 3:09-cv-00738-HEH (E.D. Va. Mar. 23, 2010).

The district court dismissed the complaint against VCU and its allied medical facilities on Eleventh Amendment immunity grounds. However, the Supreme Court has held that, in enacting Title VII, Congress properly abrogated the states' Eleventh Amendment immunity for such suits. See Fitzpatrick v. Bitzer, 427 U.S. 445, 456-57 (1976) (holding that Title VII of the Civil Rights Act of 1964 abrogates the states' Eleventh Amendment immunity). Therefore, the district court erred in dismissing Stewart's Title VII claim against VCU and its allied medical facilities on this basis. Accordingly, we vacate the judgment

as to these parties, affirm in all other respects, and remand for proceedings consistent with this opinion. We further deny Stewart's motion to strike. 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.

AFFIRMED IN PART,
VACATED IN PART,
AND REMANDED