UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1598

CHRISTINA A. HEARN,

Plaintiff - Appellant,

v.

TOWN OF OAK ISLAND,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. Terrence W. Boyle, District Judge. (7:20-cv-00200-BO)

Submitted: October 5, 2022 Decided: October 14, 2022

Before KING and HEYTENS, Circuit Judges, and KEENAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Randolph M. James, RANDOLPH M. JAMES, PC, Winston-Salem, North Carolina, for Appellant. Norwood P. Blanchard, III, CROSSLEY MCINTOSH COLLIER HANLEY & EDES PLLC, Wilmington, North Carolina, for Appellee.

PER CURIAM:

Christina A. Hearn filed an amended complaint against her former employer, the Town of Oak Island ("the Town"), alleging sex-based employment discrimination, in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e to 2000e-17. The Town moved to dismiss or for summary judgment, arguing that Hearn had not filed her discrimination charge with the Equal Employment Opportunity Commission ("EEOC") within 180 days of receiving notice of her termination. The district court granted summary judgment in favor of the Town. We affirm.

"[We] review[] a district court's grant of summary judgment de novo, applying the same legal standards as the district court, and viewing all facts and reasonable inferences therefrom in the light most favorable to the nonmoving party." *Cowgill v. First Data Techs., Inc.*, 41 F.4th 370, 378 (4th Cir. 2022) (internal quotation marks omitted). Summary judgment is appropriate "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). "A dispute is genuine if a reasonable jury could return a verdict for the nonmoving party, and a fact is material if it might affect the outcome of the suit under the governing law." *Haze v. Harrison*, 961 F.3d 654, 658 (4th Cir. 2020) (cleaned up). "To the extent the [audio recording] depicts material facts of this case, we review those facts as they are depicted in the [recording]." *Hupp v. Cook*, 931 F.3d 307, 315 n.3 (4th Cir. 2019) (citing *Scott v. Harris*, 550 U.S. 372, 380-81 (2007)). But where the recording "does not clearly or blatantly contradict [Hearn's] version of the facts, we adopt her version in reviewing the grant of summary judgment to [the Town]." *Id.* (cleaned up).

Under Title VII, an aggrieved individual must file a complaint with the EEOC "within [180] days after the alleged unlawful employment practice occurred." 42 U.S.C. § 2000e-5(e). This "exhaustion requirement is a non-jurisdictional 'processing rule, albeit a mandatory one' that must be enforced when properly raised." *Walton v. Harker*, 33 F.4th 165, 175 (4th Cir. 2022) (quoting *Fort Bend Cnty. v. Davis*, 139 S. Ct. 1843, 1851 (2019)).

Here, the 180-day period commenced when Hearn first received "final and unequivocal" notice of her termination. *English v. Whitfield*, 858 F.2d 957, 961-62 (4th Cir. 1988); *see, e.g.*, *Green v. Brennan*, 578 U.S. 547, 564 (2016); *Del. State Coll. v. Ricks*, 449 U.S. 250, 258 (1980); *Price v. Litton Bus. Sys., Inc.*, 694 F.2d 963, 965 (4th Cir. 1982). After reviewing the record, we agree with the district court that Hearn received final and unequivocal notice of her termination during the meeting on July 30, 2019. And, because Hearn filed her charge with the EEOC more than 180 days later, we affirm the district court's order granting summary judgment in favor of the Town.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED