

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

KEITH I. GORDON, JR.,)
)
 Plaintiff)
)
 v.) CASE NO. 2:15-CV-894-WKW
)
 HYUNDAI MOTORS)
 MANUFACTURING,)
)
 Defendant.)

ORDER

On April 20, 2016, the Magistrate Judge filed a Recommendation (Doc. # 17) to which no timely objections have been filed. The Recommendation correctly concludes that dismissal of the complaint, as amended, is required prior to service of process for failure of Plaintiff to state a claim upon which relief can be granted. *See* Fed. R. Civ. P. 12(b)(6). Plaintiff has not pleaded a cognizable claim under 29 C.F.R. § 1910.141(c)(1)(i), and the *McDonnell Douglas*¹ prima facie elements, when used as a guide, demonstrate that the complaint, as amended, does not plausibly suggest intentional discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* *See Powell v. Harsco Metal*, No. 2:12-CV-4080, 2013 WL 3242759, at *5 (N.D. Ala. June 20, 2013) (explaining that the *McDonnell*

¹ *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).

Douglas prima facie elements can provide a “helpful guide” in the analysis of whether a complaint plausibly demonstrates intentional discrimination) (citing *Bowers v. Bd. of Regents of Univ. Sys. of Ga.*, 509 F. App’x 906, 911 (11th Cir. 2013)); see also *Davis v. Coca-Cola Bottling Co. Consol.*, 516 F.3d 955, 974 (11th Cir. 2008) (“Although a Title VII complaint need not allege facts sufficient to make out a classic *McDonnell Douglas* prima facie case, *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 511 . . . (2002), it must provide enough factual matter (taken as true) to suggest intentional race discrimination.” (citation and internal quotation marks omitted)), *abrogated on other grounds by Ashcroft v. Iqbal*, 556 U.S. 662 (2009), and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007).

Accordingly, upon an independent review of the file and upon consideration of the Recommendation of the Magistrate Judge, it is ORDERED as follows:

(1) The Recommendation of the Magistrate Judge (Doc. # 17) is ADOPTED; and

(2) Plaintiff’s amended complaint (Doc. # 15) is DISMISSED without prejudice prior to service of process.

A separate final judgment will be entered.

DONE this 31st day of May, 2016.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE