

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No.: 14-cv-00801-REB-CBS

FREDRICK K. JENKINS

Plaintiff,

v.

CATHOLIC HEALTH INITIATIVES

Defendant.

**ORDER OVERRULING OBJECTIONS TO AND ADOPTING
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

The matters before me are (1) the **Recommendation of United States Magistrate Judge** [#55],¹ filed May 27, 2015; and (2) plaintiff's **Response and Objections to Recommendation of United States Magistrate Judge** [#56], filed June 10, 2015. I adopt the recommendation, overrule plaintiff's objections, and grant the apposite motion to for summary judgment in favor of defendant.

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendation to which objections have been filed. I have considered carefully the recommendation, objections, and applicable caselaw. The recommendation is exceptionally detailed and well-reasoned. The magistrate judge's thorough and insightful exegesis of the issues in this case requires no festooned reiteration by this

¹ “[#55]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

court. I wholeheartedly approve and adopt the recommendation as an order of this court.

Plaintiff's objections are imponderous and without merit. His suggestion that he is entitled to an inference that defendant's decision to terminate his employment was a group decision is insupportable. Even if plaintiff had provided apposite legal authority for this proposition, the record plainly supports the magistrate judge's conclusion that the supervisor who terminated plaintiff's employment was not involved in either of the terminations of the alleged comparators. Moreover, and although the court agrees with the magistrate judge's conclusion that the actions of the comparators were not of comparable seriousness to the actions that led to plaintiff's termination, the fact remains that all three employees ultimately were fired for making threats of workplace violence. I thus agree with the magistrate judge that plaintiff has failed to produce evidence sufficient to create a genuine dispute of material fact as to pretext with regard to his claims of racially motivated and age-related termination.

As for plaintiff's failure to promote claim (and setting aside the not inconsequential conclusion that the job for which plaintiff applied was not, in fact, a promotion at all), the mere temporal proximity between plaintiff's termination and the promotion of another African-American employee supports no inference of discrimination in the employment decision. Plaintiff's suggestion that further discovery might produce statistical evidence to bolster this claim is nothing but the rankest speculation, and woefully belated besides.² Defendant is entitled to summary judgment

² Although plaintiff points out that he requested such evidence in discovery, he acknowledges that he withdrew his motion to compel defendant to produce that evidence. He thus has abandoned – waived – any complaint based on the lack of substantiation in this regard.

as to this claim as well.

THEREFORE, IT IS ORDERED as follows:

1. That the **Recommendation of United States Magistrate Judge** [#55], filed May 27, 2015, is approved and adopted as an order of this court
2. That the objections stated in plaintiff's **Response and Objections to Recommendation of United States Magistrate Judge** [#56], filed June 10, 2015, are overruled;
3. That **Defendant's Motion for Summary Judgment** [#37], filed January 9, 2015, is granted;
4. That plaintiff's claims against defendant are dismissed with prejudice;
5. That judgment with prejudice shall enter on behalf of defendant, Catholic Health Initiatives, and against plaintiff, Fredrick K. Jenkins, as to all claims and causes of action asserted herein;
6. That the combined Final Pretrial Conference/Trial Preparation Conference scheduled for **Friday, June 24, 2015, at 2:30 p.m.**, as well as the jury trial, scheduled to commence on **August 10, 2015**, are vacated; and
7. That defendant is awarded its costs, to be taxed by the clerk of the court pursuant to Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1.

Dated July 20, 2015, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge