

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KENNETH JOHNSON,

Plaintiff,

v.

FULTON COUNTY, GEORGIA, RUBY
HARDY, and KATHLEEN TOOMEY,

Defendants.

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CIVIL ACTION NO.
1:17-CV-3921-AT-WEJ

ORDER

This matter is before the Court on the Magistrate Judge's Report and Recommendation [Doc. 23] that Defendants' Motion to Dismiss [Doc. 14] be granted in part and denied in part.

The Magistrate Judge recommends as follows: (1) that Plaintiff's claim of retaliation under Title VII in Count One be dismissed for failure to state a claim¹; (2) that Plaintiff's Title VII discriminatory discharge claim based on allegations of sex discrimination in Count Two be dismissed²; (3) that Plaintiff's Title VII discriminatory terms and conditions of employment claim alleged in Count Two be allowed to proceed; (4) that Defendants' motion to dismiss Plaintiff's hostile


¹ The Magistrate Judge noted that if evidence of a causal connection between Plaintiff's alleged protected activity and the adverse action came to light during discovery, Plaintiff would be granted leave to amend the Complaint to reassert a retaliation claim.

² The Magistrate Judge noted that if discovery reveals evidence of a discriminatory animus based on Plaintiff's failure to conform to gender stereotypes, Plaintiff would be granted leave to amend the Complaint to reassert the gender discrimination claim.

work environment claim in Count Three be denied; (5) that Plaintiff's Equal Protection Claim against Defendants Hardy and Toomey in Count Four be dismissed; (6) that Plaintiff's Section 1983 claims against Defendant Toomey be dismissed on the basis of qualified immunity; (7) that Plaintiff's First Amendment claim in Count Five should be dismissed as to Defendant Toomey, but shall be allowed to proceed as to Defendant Hardy.

No objections have been filed in response to the Magistrate Judge's Report and Recommendation. Therefore, in accordance with 28 U.S.C. § 636(b)(1) and Rule 72 of the Federal Rules of Civil Procedure, the Court has reviewed the Magistrate Judge's Recommendation for clear error and finds none. Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation as the opinion of the Court. For the reasons stated in Magistrate Judge's Report and Recommendation, Defendants' Motion to Dismiss [Doc. 14] is **GRANTED IN PART** and **DENIED IN PART** as set forth in the R&R.

IT IS SO ORDERED this 23rd day of May, 2018.



Amy Totenberg
United States District Judge