

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

AKISHE TURNER

CIVIL ACTION

VERSUS

NO. 22-1370

UNITED STATES OF AMERICA, ET AL.

DIVISION "5"

ORDER AND REASONS

Before the Court is the Federal Defendants' Motion to Dismiss. (Rec. doc. 15). Plaintiff opposes the motion. (Rec. doc. 25). Now, three months after Defendants filed their motion to dismiss, Plaintiff has timely filed a Motion to Amend Complaint. (Rec. doc. 29). Defendants do not oppose Plaintiff's motion. In her motion to amend, Plaintiff seeks to add Denis McDonough, Secretary of the Department of Veterans Affairs, as the only Defendant and dismiss the earlier four entities and individuals that she named in her original complaint. (Rec. doc. 29 at pp. 1-2).

In her amended complaint, Plaintiff alleges that she was subjected to race, gender, and disability-based employment discrimination and hostile work environment in violation of Title VII of the Civil Rights Act, as amended, 42 U.S.C. §§ 2000e *et seq.*, as well as the Rehabilitation Act of 1973, as amended, 29 U.S.C. §§ 791 *et seq.* McDonough, as the head of the Department of Veterans Affairs, is the proper Defendant to sue under these two statutes. 42 U.S.C. § 2000e-16(c) (stating that under Title VII, the proper federal defendant is "the head of the department, agency, or unit, as appropriate."); *see also Quevedo v. Army & Air Force Exchange Serv.*, 234 F.3d 29, 2000 WL 1568186, at *1 (5th Cir. 2000) (affirming Title VII dismissal for failure to name a proper defendant); *Honeycutt v. Long*, 861 F.2d 1346, 1349

(5th Cir. 1988) (“Under Title VII and the Rehabilitation Act the proper defendant is the head of the department, agency, or unit, as appropriate.”) (quotations and citations omitted)).

Accordingly,

IT IS ORDERED that Plaintiff’s Motion to Amend Complaint (rec. doc. 29) is **GRANTED**, the Federal Defendants’ Motion to Dismiss (rec. doc. 15) is **DISMISSED AS MOOT**, and the caption of the case is **AMENDED** to reflect:

AKISHA TURNER

VERSUS

DENIS MCDONOUGH, SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS

New Orleans, Louisiana, this 27th day of March, 2023.



MICHAEL B. NORTH
UNITED STATES MAGISTRATE JUDGE