UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
--X
MICHAEL MURPHY,

     Plaintiff,   MEMORANDUM AND ORDER

   -against-   CV 10-0251 (LDW)(AKT)

SUFFOLK COUNTY COMMUNITY
COLLEGE and JOHN WILLIAMS,

     Defendants.
--X

WEXLER, District Judge

  By Order endorsed on April 29, 2011, the Court granted in part and denied in part

defendants' motion to dismiss and reserved decision on defendants' motion to dismiss

plaintiff's constructive discharge claim. The parties have submitted additional briefing on

the constructive discharge claim.

  Upon consideration, defendants' motion to dismiss the constructive discharge

claim for failure to exhaust administrative remedies is denied. In his complaint in this

action, plaintiff alleges, inter alia, that he retired on May 27, 2008, out of fear that he

would lose his job and due to intolerable conditions resulting from discrimination and

retaliation. While it appears that plaintiff did not expressly assert to the EEOC or

NYSDHR that he was no longer employed at Suffolk County Community College and

was pursuing a constructive discharge claim, his pro se allegations sufficiently asserted a

hostile work environment, as evidenced by the Administrative Law Judge's

Recommended Findings of Fact, Opinion and Decision, and Order, dated Nov. 20, 2009,

at 8. *See* Declaration of John Petrowski, dated October 7, 2010, Exh. E, at 8 ("To the

extent that Complainant alleged that Respondent created a hostile work environment at

his place of employment and that it existed because of his age ...."). Given plaintiff's pro

se status in the administrative proceedings, and the apparent assertion of a hostile work

environment, the Court concludes that the purported constructive discharge claim is

reasonably related to the claims made in the administrative proceedings. *See Fitzgerald v.*

Henderson, 251 F.3d 345, 359-60 (2d Cir. 2001). Accordingly, defendants' motion to

dismiss the constructive discharge claim is denied.

       SO ORDERED.

                              _____/s/_____

                              LEONARD D. WEXLER

                              UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
       August 8, 2011