

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

K'DREA FOX,

Plaintiff,

v.

1:17-CV-0798 (TJM/DEP)

ALBANY MEDICAL CENTER, et al.,

Defendants.

THOMAS J. McAVOY,
Senior United States District Judge

DECISION & ORDER

I. INTRODUCTION

This *pro se* employment action was referred to the Hon. David E. Peebles, Chief United States Magistrate Judge. In his September 11, 2017 Report, Recommendation and Order, Magistrate Judge Peebles granted plaintiff's *in forma pauperis* application and, after conducting a 28 U.S.C. § 1915(e) initial review, recommended that:

- (1) All of plaintiff's Title VII claims asserted against the individual defendants in this action be DISMISSED without leave to replead;
- (2) Plaintiff's Title VII discrimination and hostile work environment claims asserted against defendant Albany Medical Center be DISMISSED with leave to replead; and
- (3) In the event plaintiff does not avail herself of the opportunity to file an amended complaint, the case proceed only with respect to plaintiff's Title VII retaliation claim asserted against defendant Albany Medical Center.

Ord., Rep. & Rec., dkt. # 5, p. 13 (dkt. # 5).

Magistrate Judge Peebles also informed Plaintiff that any amended complaint will “replace the existing complaint, and must be a wholly integrated and complete pleading that does not rely upon or incorporate by reference any pleading or document previously filed with the court.” Id. p. 12 (citing Shields v. Citytrust Bancorp, Inc., 25 F.3d 1124, 1128 (2d Cir. 1994) (“It is well established that an amended complaint ordinarily supersedes the original, and renders it of no legal effect.”)).

Plaintiff did not file objections to the Report, Recommendation and Order [dkt. # 5], and the time to do so has expired. However, Plaintiff filed an amended complaint which include claims only against Albany Medical Center. See dkt. # 6.

II. DISCUSSION

After examining the record, this Court has determined that the Report, Recommendation and Order is not subject to attack for plain error or manifest injustice.

III. CONCLUSION

Accordingly, the Court **ADOPTS** the Report, Recommendation and Order [dkt. # 5] for the reasons stated therein. Thus, it is hereby

ORDERED that

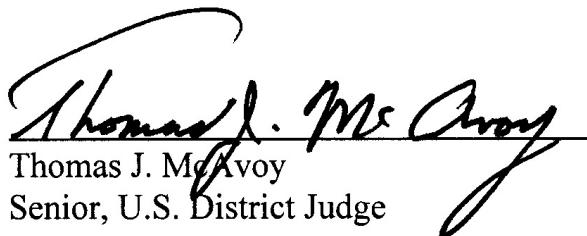
(1) All of plaintiff's Title VII claims asserted against the individual defendants named in the complaint are DISMISSED without leave to replead, and the individual defendants are terminated from this action;

(2) Plaintiff's Title VII discrimination and hostile work environment claims asserted in the complaint against defendant Albany Medical Center are DISMISSED with leave to replead; and

(3) Plaintiff's amended complaint [dkt. # 6] is referred to Magistrate Judge Peebles for a 28 U.S.C. § 1915(e) initial review.

IT IS SO ORDERED.

Dated: October 3, 2017


Thomas J. McAvoy
Senior, U.S. District Judge