

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SHONDA R. HANNAH,

Plaintiff,

DECISION AND ORDER

08-CV-6567L

v.

ONE COMMUNICATIONS,

Defendant.

Plaintiff, Shonda R. Hannah (“Hannah”), commenced this action *pro se* alleging that her termination from employment was done on the basis of her race. Defendant moved for summary judgment, and this Court referred the motion to United States Magistrate Judge Jonathan W. Feldman pursuant to 28 U.S.C. § 636(b). After reviewing the motion, all pleadings in the case, as well as depositions, the Magistrate Judge issued a thorough Report and Recommendation (Dkt. #39) recommending that this Court grant the defendant’s motion for summary judgment and dismiss the complaint.

Hannah has failed to file any objections to that Report and Recommendation although the time within which to do so has elapsed.

I have carefully reviewed the Magistrate Judge’s thorough 23-page Report and Recommendation which discusses the claims, facts and controlling law. I see no basis to modify, reverse or reject the Report and Recommendation and believe that indeed summary judgment is appropriate.

The facts establish that Hannah was terminated because of her low productivity and because of her excessive, constant use of the company’s telephones for personal matters. That issue had been

raised with Hannah for some time and the evidence showed that the time spent by her on personal calls was truly excessive. I believe there is no material issue of fact here on either Hannah's discrimination claim or the claim that she was somehow retaliated against.

Plaintiff has failed to advance any rational basis for concluding that Hannah's African-American race played any part in the decision to terminate her. There is no evidence that the decisionmaker who ordered the termination had any racial animus or bias and the facts demonstrate that Hannah's replacement was also an African-American individual.

For all the reasons set forth in the Magistrate Judge's thorough Report and Recommendation I conclude that summary judgment is warranted.

CONCLUSION

I adopt and accept the Report and Recommendation (Dkt. #39) of the United States Magistrate Judge Jonathan W. Feldman in its entirety.

Defendant's motion for summary judgment (Dkt. #34) is granted and the complaint is dismissed.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
November 2, 2011.