

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>GERONIMO CLEMENA</b>	:	<b>CIVIL ACTION</b>
<i>Plaintiff</i>	:	
	:	<b>NO. 17-428</b>
<b>v.</b>	:	
	:	
<b>PHILADELPHIA COLLEGE OF OSTEOPATHIC MEDICINE</b>	:	
<i>Defendant</i>	:	

**ORDER**

**AND NOW**, this 11<sup>th</sup> day of August 2017, upon consideration of Defendant's *motion to dismiss*, [ECF 9], Plaintiff's response in opposition thereto, [ECF 12], Defendant's reply brief, [ECF 15], and the allegations contained in the complaint, [ECF 1], it is hereby **ORDERED**, for the reasons set forth in the accompanying Memorandum Opinion filed on this day, that Defendant's motion to dismiss is **GRANTED**, *in part*, and **DENIED**, *in part*, as follows:

- I. Plaintiff's claims pursuant to Title VII of the Civil Rights Act of 1964 are **DISMISSED**.
- II. Plaintiff's claims pursuant to 42 U.S.C. § 1981 are **DISMISSED**.
- III. Plaintiff's claims pursuant to the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008, are **DISMISSED**, except for Plaintiff's disability discrimination claim premised on Defendant's failure to accommodate Plaintiff when he requested transfer to the May 4, 2015 first-shift Operating Engineer vacancy and Plaintiff's wrongful termination claim.
- IV. Plaintiff's claims pursuant to the Pennsylvania Human Relations Act are **WITHDRAWN** by agreement.

**BY THE COURT:**

/s/ Nitza I. Quiñones Alejandro  
**NITZA I. QUIÑONES ALEJANDRO**  
*Judge, United States District Court*