

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Wendell K. Crowley,	)	
	)	C/A No. 3:11-2730-MBS-PJG
Plaintiff,	)	
	)	
vs.	)	
	)	<b>OPINION AND ORDER</b>
United Healthcare Services, Inc.; and	)	
Brenda Ford, individually and in her	)	
official capacity,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff Wendell K. Crowley brought this action against his former employer, Defendant United Healthcare Services, Inc.; and his former supervisor, Defendant Brenda Ford, alleging that he was subjected to sexual harassment and retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq. (“Title VII”); and discriminated against because of his disability in violation of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12101, et seq. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling.

On November 16, 2011, Defendant Ford filed a motion to dismiss for failure to state a claim. See Fed. R. Civ. P. 12(b)(6). Defendant Ford asserted that she is not individually liable to Plaintiff for his claims under Title VII and the ADA. See Lissau v. S. Food Serv., Inc., 159 F.3d 177 (4<sup>th</sup> Cir. 1997); Baird ex rel. Baird v. Rose, 192 F.3d 462 (4<sup>th</sup> Cir. 1999). Plaintiff filed a response in opposition to Defendant Ford’s motion on December 5, 2011, to which Defendant Ford filed a reply on December 15, 2011. On May 30, 2012, the Magistrate Judge issued a Report and Recommendation in which she determined that Fourth Circuit precedent supported Defendant Ford’s

motion. Accordingly, the Magistrate Judge recommended that Defendant Ford's motion to dismiss be granted. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendant Ford's motion to dismiss is **granted**.<sup>1</sup> The case is recommitted to the Magistrate Judge for additional pretrial handling.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
Chief United States District Judge

Columbia, South Carolina

June 25, 2012.

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<sup>1</sup>As the Magistrate Judge noted, the dismissal applies to any separate cause of action under the South Carolina Human Affairs Laws.