
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

ANTHONY SIMON,

Plaintiff,

versus

ERIC HOLDER, Attorney General,

Defendant.

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CIVIL ACTION NO. 1:11-CV-356

MEMORANDUM ORDER

The court referred this matter to United States Magistrate Judge Keith F. Giblin for consideration and recommended disposition of case-dispositive pretrial motions. Judge Giblin issued a report and recommendation on the defendant’s motion to dismiss, or alternatively, for summary judgment. He recommended that the court grant the motion on summary judgment grounds and enter judgment in favor of the defendant.


The plaintiff filed objections to the magistrate judge’s recommendation. The objections do not address any specific finding or portion of the magistrate judge’s report. The plaintiff simply states his personal belief that “Caucasian female counterparts similarly situated did not have to report to the United States Penitentiary.” This is a restatement of the general allegations in his complaint that he received unfavorable treatment as a federal prison guard when he was temporarily assigned to work in the United States Penitentiary (USP) while other prison employees were not placed at the USP.

The magistrate judge addressed this claim in the report and recommendation, finding that the plaintiff did not suffer an adverse employment action and that he failed to come forth with any summary judgment evidence showing that similarly situated employees outside of his race were

treated differently. The plaintiff did not respond to the defendant's motion for summary judgment and his objections also fail to set forth any summary judgment evidence creating a genuine issue of material fact on his Title VII causes of action. The only thing the plaintiff has filed in opposition to the defendant's arguments and evidence are his objections. The objections consist of one self-serving, unsworn paragraph setting forth the plaintiff's personal belief that he was treated differently than Caucasian female guards when he was assigned to the USP. There is no evidence in the record to support this contention. The court overrules the plaintiff's objections because they present no new argument or evidence suggesting that the magistrate judge's findings and conclusions on summary judgment are erroneous.

Pursuant to the plaintiff's objections and in accordance with 28 U.S.C. § 636(b)(1), the court conducted a *de novo* review of the magistrate judge's findings, the record, the plaintiff's objections, and the applicable law in this proceeding. After review, the court finds that Judge Giblin's findings and recommendations should be accepted. The plaintiff's objections (#21) are overruled. The court ORDERS that the report and recommendation (#19) on the defendant's motion for summary judgment is ADOPTED. The court further ORDERS that defendant's motion to dismiss, or alternatively, for summary judgment (#14) is GRANTED. The plaintiff's causes of action are dismissed in their entirety, with prejudice. The court will enter final judgment separately.

SIGNED at Beaumont, Texas, this 10th day of July, 2013.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE