

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

YVES WANTOU

§

§

V.

§

No. 5:17CV18-RWS-CMC

§

WAL-MART STORES TEXAS, LLC

§

MEMORANDUM ORDER

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration.

On February 15, 2018, the Magistrate Judge issued a Report and Recommendation, recommending Defendant Wal-Mart Stores Texas, LLC's First Amended Rule 12(b)(6) Motion to Dismiss (Docket No. 49) be granted in part. Specifically, the Magistrate Judge recommended Plaintiff's Title VII retaliation and/or discrimination claims based upon an alleged failure to promote be dismissed with prejudice. Otherwise, the Magistrate Judge recommended Defendant's partial motion be denied.¹

To date, no objections have been filed to the February 15, 2018 Report and Recommendation. As noted in the Report and Recommendation, failure to file objections to the proposed findings and

¹ In addition to other claims not addressed by Defendant's current motion to dismiss (i.e. disparate treatment and hostile work environment claims), Plaintiff alleges a claim of retaliation pursuant to Title VII and 42 U.S.C. § 1981 based upon certain alleged adverse employment actions that included failures to promote and Plaintiff's termination from employment. Defendant only moves to dismiss those discrimination and retaliation claims asserted by Plaintiff under Title VII that are based upon the alleged failures to promote.

Regarding Plaintiff's race, color, ethnicity, and national origin claims asserted under § 1981, Defendant moves to dismiss only those based upon color, ethnicity, and national origin.

recommendations contained in the report within fourteen days of service bars an aggrieved party from *de novo* review by the district court of those proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court, except on grounds of plain error or manifest injustice. Fed. R. Civ. P. 72(b)(2), (3).

There being no grounds of plain error or manifest injustice, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is hereby

ORDERED that Defendant Wal-Mart Stores Texas, LLC's First Amended Rule 12(b)(6) Motion to Dismiss (Docket No. 49) is **GRANTED IN PART**. It is further

ORDERED that Plaintiff's Title VII retaliation and/or discrimination claims based upon an alleged failure to promote are **DISMISSED WITH PREJUDICE**.

Any other relief sought in Defendant's motion is **DENIED**.

So ORDERED and SIGNED this 12th day of March, 2018.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE