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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-664

Filed: 5 February 2019

Mecklenburg County, No. 13 CVS 9560

TERRI YOUNG, Plaintiff,

v.

DANIEL BAILEY, in his Official Capacity as Sheriff of Mecklenburg County, and
OHIO CASUALTY INSURANCE COMPANY, Defendants.

Appeal by plaintiff Terri Young from order entered 16 February 2018 by Judge
Lisa C. Bell in Superior Court, Mecklenburg County. Heard in the Court of Appeals
16 January 2019.

*Kennedy, Kennedy, Kennedy and Kennedy, LLP, by Harvey L. Kennedy and
Harold L. Kennedy, III, for plaintiff-appellant.*

Womble Bond Dickinson (US) LLP, by Sean F. Perrin, for defendants-appellees.

STROUD, Judge.

The background of this case can be found in this Court's prior opinion of *Young v. Bailey*, 240 N.C. App. 595, 771 S.E.2d 628, (2015), *aff'd*, 368 N.C. 665, 781 S.E.2d 277 (2016). The prior appeal was filed in this same case and addressed the same claims and issues. *See id.* at 596, 771 S.E.2d at 629. Plaintiff Terri Young was a

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deputy sheriff in the Mecklenburg County Sheriff's Department. *Id.* Defendant Daniel Bailey was elected as sheriff, and defendant Bailey then terminated plaintiff's employment. *See id.* Plaintiff filed this lawsuit alleging she had been terminated for unlawful reasons. *See id.* Defendants filed a motion for summary judgment, and the trial court granted summary judgment for defendants, dismissing plaintiff's claims. *Id.* Plaintiff appealed, and this Court affirmed the trial court's judgment. *Id.* at 601, 771 S.E.2d at 632. Plaintiff then petitioned the North Carolina Supreme Court for discretionary review, and the Supreme Court affirmed this Court's opinion in January of 2016. *See Young v. Bailey*, 368 N.C. 665, 781 S.E.2d 277.

In November of 2017, plaintiff filed a motion with the trial court under Rule 60(b)(6) for relief from judgment, arguing she was entitled to resurrect her claim based upon the United State Supreme Court's opinion in *Heffernan v. City of Patterson, N.J.*, 136 S. Ct. 1412, 194 L. Ed 2d 508 (2016), which was decided after the North Carolina Supreme Court had affirmed the dismissal of her claim. Plaintiff alleged *Heffernan* controls this case. On 16 February 2018, the trial court entered an order denying plaintiff's motion. Plaintiff appeals.

Plaintiff Young's case is in the same procedural position, and her argument is the same as the plaintiff's argument in *McLaughlin v. Bailey*, ___ N.C. App. ___, ___, S.E.2d ___, ___ (Feb. 5, 2019), which is filed simultaneously with this opinion. For the same reasons as stated in *McLaughlin*, we reject plaintiff's argument. Based

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upon *McLaughlin*, we affirm the trial court's 16 February 2018 order denying plaintiff's Rule 60 motion.

AFFIRMED.

Judges DIETZ and BERGER concur.

Report per Rule 30(e).