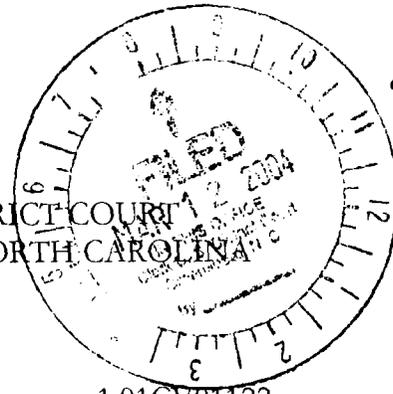


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36.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



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VESTER KAY SCURLOCK-FERGUSON)
Plaintiff,)
v.)
CITY OF DURHAM,)
Defendant.)

1:01CV01122

ORDER AND JUDGMENT

BEATY, District Judge.

On March 18, 2003, in accordance with 28 U.S.C. § 636(b), an Order and Recommendation of the United States Magistrate Judge [Document #27] was filed in response to Defendant City of Durham's Motion for Summary Judgment [Document #14] with respect to all of Plaintiff's claims, and Plaintiff's Cross Motion for Partial Summary Judgment on her claim under the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, *et seq.* [Document #18].¹ Plaintiff filed an Objection to [the] Recommendations of the United States Magistrate Judge [Document #32], and Defendant filed a Response in Support of [the] Magistrate Judge's Recommendation for Dismissal [Document #33] For reasons stated therein, the Magistrate Judge recommended that Defendant's Motion for Summary Judgment should be granted with respect to Plaintiff's only remaining claims of unlawful

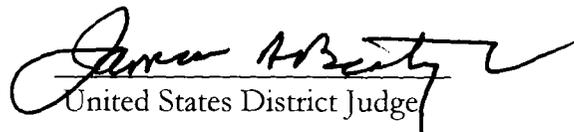
¹Plaintiff's original Complaint included five separate claims consisting of the following: (1) Violation of Title VII of the Civil Rights Act of 1964; (2) Violation of 42 U.S.C. § 1981; (3) Violation of the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, *et seq.*; (4) Intentional Infliction of Severe Emotional Distress; and (5) Negligent Infliction of Severe Emotional Distress. Plaintiff's claims of Defendant's violation of Title VII and 42 U.S.C. § 1981 were based upon allegations of hostile work environment, failure to promote, and retaliation. Defendant moved for summary judgment as to all of these claims, but Plaintiff filed a response opposing summary judgment only with respect to her Title VII and § 1981 claim as it related to her allegations of retaliation and her claim that Defendant violated the Family and Medical Leave Act. The Magistrate Judge deemed Defendant's Motion for Summary Judgment as being unopposed as to Plaintiff's remaining claims. Notwithstanding this determination, the Magistrate Judge still found that Defendant's Motion for Summary Judgment was meritorious as to the claims Plaintiff did not respond to.

retaliation in violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981, and Defendant's alleged violation of the Family and Medical Leave Act.

The Court has made a de novo determination which is in accord with the Magistrate Judge's Recommendation in all respects. The Court finds that Plaintiff's objections do not affect the disposition of this matter by the Magistrate Judge. The Court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendant City of Durham's Motion for Summary Judgment [Document #14] is GRANTED as to all of Plaintiff's remaining claims. IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff's Cross Motion for Partial Summary Judgment [Document #18] is DENIED, and this matter is hereby DISMISSED with prejudice.

This, the 12 day of March, 2004.


United States District Judge