

39.

D/R.W

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

VICTORIA WATKINS)
)
 Plaintiff,)
)
 v.)
)
 HOSPITALITY GROUP)
 MANAGEMENT, INC. d/b/a)
 SLEEP INN, GREENSBORO)
)
 Defendant.)

Case No. 1:02CV00897



MEMORANDUM ORDER

This matter is before the Court on Defendant's Motion to Reconsider the partial denial of its earlier Motion for Summary Judgment. [Doc. #38]. In a Memorandum Opinion dated December 1, 2003, this Court denied Defendant's Motion for Summary Judgment with respect to Plaintiff's Title VII employment discrimination and retaliatory discharge claims. [Doc. #19]. Defendant now requests that this Court reconsider that decision in light of an intervening Fourth Circuit case, Hill v. Lockheed Martin Logistics Mgmt, Inc., 354 F.3d 277 (4th Cir. 2004). Lockheed does not change the fact that, here, Plaintiff has met her burden to escape summary judgment. Therefore, Defendant's Motion to Reconsider [Doc. #38] is DENIED.

Defendant argues that the party to whom Plaintiff attributes racial animus, Mr. Rone, is not the party that made the decision to demote or discharge Plaintiff.

It contends that, under Lockheed, the relevant inquiry is whether the decisionmaker, rather than other managers or subordinates, evaluated a plaintiff-employee on the basis of discriminatory criteria. However, Lockheed addressed a situation where the party to whom racial animus had been attributed was a safety inspector, a subordinate with no managerial powers over the plaintiff:

[W]e decline to endorse a construction of the discrimination statutes that would allow a biased subordinate who has no supervisory or disciplinary authority and who does not make the final or formal employment decision to become a decisionmaker simply because he had a substantial influence on the ultimate decision or because he has played a role, even a significant one, in the adverse employment decision.

Id. at 291 (emphasis added). In Lockheed, racial animus had been attributed to the safety inspector who had reported the plaintiff for violations. These reports ultimately played a role in the plaintiff's termination, but the court refused to consider this level of involvement enough to trigger application of the discrimination statutes. Id. at 291-92. Specifically, the court held:

[I]n sum, to survive summary judgment, an aggrieved employee who rests a discrimination claim upon the discriminatory motivations of a subordinate employee must come forward with sufficient evidence that the subordinate employee possessed such authority as to be viewed as the one principally responsible for the decision or the actual decisionmaker for the employer.

Id. at 291.

Here, Mr. Rone was the General Manager for Defendant Sleep Inn, and therefore not a subordinate with "no supervisory or disciplinary authority." Regardless, even if Mr. Rone was considered a subordinate employee of the type

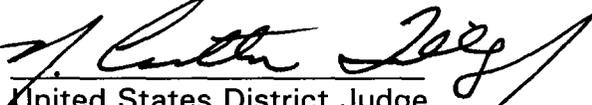
discussed in Lockheed, Plaintiff has forecast evidence upon which a reasonable jury could find that Mr. Rone was “principally responsible” for the decisions to demote and discharge her. Absences from work and a failure to return phone calls were the reasons stated by Defendant for Plaintiff’s termination. Plaintiff has provided evidence that Mr. Rone was the General Manager and person to whom she reported on a daily basis, and the one whom she called regarding her illness and her need to be absent from work for several days during the weekend in question. Plaintiff has also proffered evidence that Mr. Rone had previously demoted her from Assistant General Manager to Front Desk Manager. Her deposition testimony provides that Mr. Rone told her she was being demoted, and that the decision to demote had been his.

Plaintiff has proffered evidence upon which a reasonable jury could find that Mr. Rone was principally responsible for the adverse employment actions in question. Along with this evidence, Plaintiff has provided evidence of racial animus on the part of Mr. Rone. As discussed in the December 1, 2003 Memorandum Opinion, Mr. Rone made numerous comments connecting the race of Plaintiff and other employees to the ability of each to perform his or her job.¹

¹For instance, Plaintiff’s deposition testimony indicates that Mr. Rone ordered her to hire more Hispanics for the housekeeping department as they worked better. (Dep. Watkins at 43.) He told Plaintiff that they needed to hire more white employees for front-desk positions. (Dep. Watkins at 61.) On more than one occasion, Mr. Rone commented that Plaintiff “didn’t look black” and was therefore well-suited to work as a front office manager. (Dep. Watkins at 64.)

In short, Plaintiff has met the burden required to escape summary judgment, and Defendant's Motion to Reconsider the denial of summary judgment is DENIED.

This 11th day of February, 2004


United States District Judge