

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SUSAN L. SACAVAGE : CIVIL ACTION
 :
 v. :
 :
 JEFFERSON UNIVERSITY PHYSICIANS : NO. 99-3870

MEMORANDUM AND ORDER

BECHTLE, J. JULY , 2000

Presently before the court is plaintiff Susan L. Sacavage's ("Plaintiff") Motion for Reconsideration and defendant Jefferson University Physicians' ("Defendant") response thereto. For the reasons set forth below, the motion will be denied.

I. BACKGROUND

Plaintiff brought this action against Defendant, alleging that her employment was terminated based on her pregnancy in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e)(k).¹ Defendant alleges that Plaintiff was fired because she failed to report to work on March 24 and March 25, 1998, and did not report her absences. (Pl.'s Br. in Opp'n to Def.'s Mot. for Summ. J. Ex. D.)² Plaintiff asserts that she was fired not because she failed to comply with Defendant's attendance policy, but because she was pregnant. Plaintiff filed her Complaint on

¹ The court incorporates by reference its statement of the facts and background of this case stated in its Memorandum and Order dated June 20, 2000. The court has jurisdiction over Plaintiff's claims because they arise under federal law. 28 U.S.C. § 1331.

² The record shows that Plaintiff did not attend work between March 16, 1998 and March 26, 1998.

July 30, 1999.³ On January 13, 2000, Defendant filed a motion for summary judgment, which the court granted on June 20, 2000. On June 22, 2000, Plaintiff filed a Motion for Reconsideration, to which Defendant filed a response on June 27, 2000.

II. LEGAL STANDARD

Local Rule 7.1(g) of Civil Procedure for the Eastern District of Pennsylvania allows a party to make a motion for reconsideration. "The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence." Harsco Corp. v. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1985). "Because federal courts have a strong interest in the finality of judgments, motions for reconsideration should be granted sparingly." Continental Cas. Co. v. Diversified Indus., Inc., 884 F. Supp. 937, 943 (E.D. Pa. 1995). Courts will reconsider an issue only "when there has been an intervening change in the controlling law, when new evidence has become available, or when there is a need to correct a clear error or prevent manifest injustice." NL Industries, Inc. v. Commercial Union Ins. Co., 65 F.3d 314, 324 n.8 (3d Cir. 1995). Mere dissatisfaction with the Court's ruling is not a proper basis for reconsideration. Glendon Energy Co. v. Borough of Glendon, 836 F. Supp. 1109, 1122 (E.D. Pa. 1993).

³ Plaintiff filed an Amended Complaint on January 31, 2000, changing only the caption to read "Jefferson University Physicians" rather than "Thomas Jefferson University Hospital."

III. DISCUSSION

Plaintiff asserts that the Supreme Court's opinion in Reeves v. Sanderson Plumbing Products, Inc., No. 99-536, 2000 WL 743663 (U.S. June 12, 2000), requires reversal of this court's Order dated June 20, 2000. Plaintiff argues that she has shown sufficient evidence for a jury to find that Defendant's nondiscriminatory explanation for terminating Plaintiff's employment is false, and that therefore, the case must go to a jury. For the reasons stated below, the court disagrees and will deny Plaintiff's motion.

Reeves is an age discrimination case that addressed the question of "whether a plaintiff's prima facie case of discrimination, combined with sufficient evidence for a reasonable factfinder to reject the employer's nondiscriminatory explanation for its decision, is adequate to sustain a finding of liability for intentional discrimination." Id. at *4. In Reeves, after the plaintiff established a prima facie case, the defendant contended that it had fired the plaintiff not because of his age, but because of his failure to maintain accurate attendance records, costing the company overpaid wages. Id. at *3 & *6. The plaintiff then "made a substantial showing that respondent's explanation was false." Id. at *7.

In showing that the defendant's reason was false, the plaintiff in Reeves first offered evidence that he had properly maintained the attendance records. Id. at *7. He then "cast

doubt on whether he was responsible for any failure to discipline late and absent employees" by showing that he was not, in fact, the employee responsible for disciplining those employees. Id. Further, the plaintiff testified that, on the day he was fired, his supervisor told him that his discharge was due to his failure to report a particular employee absent on two days in September 1995. Id. The plaintiff produced evidence that he was in the hospital in September 1995, and that therefore, he was not the employee responsible for reporting employees absent on those dates. Id. Finally, the plaintiff testified that on previous occasions, when employees were paid for hours they had not worked, the defendant "simply adjusted those employee's next paychecks to correct the errors" rather than firing the employee that was responsible for making them.⁴ Id.

The Supreme Court determined that the plaintiff had "set forth sufficient evidence" to reject the defendant's explanation, and that based on the plaintiff's evidence, a reasonable jury could conclude that the defendant's explanation for terminating the plaintiff was "false." Id. at *9. The Court reasoned that, when the plaintiff is able to bring forward "[p]roof that the defendant's explanation is unworthy of credence," a jury may "reasonably infer . . . a discriminatory purpose" from the

⁴ The plaintiff also brought forward evidence showing that the defendant had directed derogatory, age-based comments at him, and that defendant had singled him out for harsher treatment than that received by other employees. Id. at *8.

defendant's falsity.⁵ Id. at 8.

In the instant case, Plaintiff has simply not brought forward "sufficient evidence" to show that Defendant's asserted reason for terminating her is false or "unworthy of credence." Id. at *9. It is uncontested that Plaintiff did not attend work from March 16 to March 26, 1998. Defendant alleges that Plaintiff was fired because she did not report to work and did not call her supervisor to explain her absence. Plaintiff contends that she complied with Jefferson University Physicians' attendance policy because she left messages on her supervisor's answering machine and spoke to several co-workers. (Sacavage Dep. at 81, 85 & 94; Pl.'s Br. in Opp'n to Def.'s Mot. for Summ. J. Ex. H.) Plaintiff does not assert that she spoke personally to her supervisor on a daily basis to report her absences, and acknowledges that her supervisor required employees in her department "to call in every day and speak to [her]." (Sacavage Dep. at 82 & 116.) Plaintiff also admits that when she called a co-worker to report her absence, she was informed that leaving messages with the co-worker "wasn't sufficient" and that Plaintiff was required to call her supervisor to report her absence.⁶ (Sacavage Dep. at 82.)

⁵ The Court reaffirmed its reasoning in Hicks, however, cautioning that "it is not enough . . . to disbelieve the employer; the factfinder must believe the plaintiff's explanation of intentional discrimination." Id. at *8 (citing St. Mary's Honor Center v. Hicks, 509 U.S. 499, 519 (1993)).

⁶ Regardless of whether or not Plaintiff complied with
(continued...)

Plaintiff also fails to allege that any other non-pregnant employee was treated more favorably than her. See Piraino v. Int'l Orientation Resources, Inc., 137 F.3d 987, 990 (7th Cir. 1998) (stating that plaintiff "must show that she was treated less favorably than a nonpregnant employee under identical circumstances and that her pregnancy was the reason she was treated less favorably") (citations and internal quotations omitted); Hunt-Golliday v. Metropolitan Water Reclamation Dist., 104 F.3d 1004, 1011 (7th Cir. 1997) (same); Pendarvis v. Xerox Corp., 3 F. Supp. 2d 53, 57 (D.C. Cir. 1998) (same); Soreo-Yasher v. First Office Management, 926 F. Supp. 646, 649 (N.D. Ohio 1996) (stating that under Title VII, employer is required to "ignore an employee's pregnancy, but not her absence from work, unless the employer overlooks the comparable absences of non-pregnant employees") (citing Troupe v. May Dept. Store Co., 20 F.3d 734, 738 (7th Cir. 1994)).

Based on the record, there is insufficient evidence for a reasonable jury to infer discriminatory purpose. See Mem. & Order dated June 20, 2000 at 9-12 (reviewing Plaintiff's allegations). Plaintiff has failed to "set forth sufficient

⁶(...continued)

Jefferson University Physicians' attendance policy by leaving messages on her supervisor's answering machine, Plaintiff does not allege that she complied with her supervisor's requirement that she personally speak to her supervisor on a daily basis to report her absence from work. See Def.'s Mem. of Law in Supp. of Mot. for Summ. J. Ex. C ¶ 7 (stating policy). Instead, Plaintiff merely denies receiving a card listing her supervisor's home, work and cell phone numbers. (Sacavage Dep. at 106-07.)

evidence to reject the defendant's explanation." Reeves, 2000 WL 743663, at *9. Plaintiff has not only failed to "ma[ke] a substantial showing" that Defendant's explanation was false or "unworthy of credence," Id. at *7-*8, but has also failed to allege that any other non-pregnant employee was treated more favorably than her. Thus, the court will deny Plaintiff's motion for reconsideration.

III. CONCLUSION

For the reasons set forth above, Plaintiff's motion for reconsideration will be denied.

An appropriate Order follows.

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ORDER

AND NOW, TO WIT, this day of July, 2000, upon
consideration of plaintiff Susan L. Sacavage's Motion for
Reconsideration and defendant Jefferson University Physicians'
response thereto, IT IS ORDERED that said motion is DENIED.

LOUIS C. BECHTLE, J.