

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

MANDRAKE CONNER	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
	:	
v.	:	NO. 04-1926
	:	
	:	
MOBILE MINI INC.	:	
	:	
Defendant.	:	

**MEMORANDUM - ORDER**

Presently pending is the pro se Plaintiff’s Motion to Extend Time for Discovery and the Defendant’s response thereto. Also pending is Defendant’s Motion for Summary Judgment and pro se Plaintiff’s response thereto. Plaintiff asserts that the Defendant has failed to appropriately respond to Plaintiff’s discovery requests. Defendant avers that Plaintiff has requested documents that are unduly burdensome, overly broad or otherwise not relevant to the proceedings. There is no explanation provided of how the extension of discovery would be productive since Plaintiff has at no time moved to compel greater disclosures. Therefore, in this case where discovery has been open for approximately one year, we find no basis to extend discovery. Plaintiff’s Motion to Extend Discovery will be denied. I next turn to the Defendant’s Motion for Summary Judgment and pro se Plaintiff’s response thereto. After careful consideration of the motions and the attached exhibits the Court will grant summary judgment to the Defendant and deny pro se Plaintiff’s Motion for Summary Judgment.

## **Facts**

Defendant Mobile Mini, Inc. (MMI) is an Arizona-based business which markets all-steel containers and portable offices. MMI has offices throughout the United States, including offices in Chicago, Illinois and Milwaukee, Wisconsin. Plaintiff Mandrake Conner was an employee of MMI and worked in both the Chicago and Milwaukee offices. Plaintiff began his employment with MMI as a salesperson in the Chicago office in May 2000, but was transferred to the Milwaukee office as a Branch Manager. MMI Regional Manager Patrick Johnson (“Johnson”) offered Plaintiff a position as Branch Manager in the Milwaukee office in June 2002. Plaintiff accepted the position and commenced his new position on June 6, 2002. Johnson allegedly began receiving complaints regarding Plaintiff in the Fall of 2002. In September 2002, the Defendant claims that sales representatives in the Milwaukee office reported to Johnson that Plaintiff was verbally abusive to the office staff. Johnson spoke with Plaintiff about these complaints and cautioned him against yelling at his employees. Shortly thereafter, certain employees from the Milwaukee office terminated their employment and the Defendant claims that Johnson received reports that Plaintiff’s temper was to blame. In October 2002, Johnson informed Plaintiff of the complaints and detailed the appropriate procedures for handling problems with office staff. Allegedly, later that same month, Johnson received a complaint from an MMI customer who overheard Plaintiff yelling in the office. Johnson spoke with Plaintiff about this complaint. In November 2002, Johnson visited the Milwaukee office and while there learned of further problems with Plaintiff and his lack of anger management. Johnson gave Plaintiff a written warning in January 2003 and counseled Plaintiff on the requirements of professionalism. Defendant argues that complaints regarding Plaintiff continued after Plaintiff

was warned. Defendant's motion details that Johnson received a complaint directly from George Schiller of Walter Power Systems, a MMI vendor. Schiller reported that Plaintiff argued with him and hung up the telephone during a conversation. As a result, Schiller severed the business relationship with MMI. Plaintiff received an additional written warning based on the incident with Schiller. Allegedly, the next day, Plaintiff argued with another employee about the vendor incident. After the business relationship with Walter Power Systems was lost and Plaintiff continued to allegedly berate his employees, Plaintiff was removed as branch manager and offered a sales position in the Chicago office where he would have started at a higher salary. Plaintiff refused the demotion and was subsequently terminated. Plaintiff does not deny the complaints lodged against him but merely argues that whites were treated more favorably. Plaintiff has not, however, presented any evidence of a white branch manager in a comparable situation being treated more favorably. Plaintiff has filed a complaint alleging that his discharge was due to his race in violation of Title VII, 42 U.S.C. § 2000e *et seq.*

### **Discussion**

Summary judgment is appropriate, "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to summary judgment as a matter of law." Fed R. Civ. Pro 56(c).

This complaint alleges a violation of Title VII. In order to prevail on his claim, Plaintiff must first establish a prima facie case of discrimination. McDonnell Douglas Corp v. Green, 411 U.S. 792, 802 (1973). Once a prima facie case is established, the burden shifts to the Defendant to articulate a legitimate, non-discriminatory reason for the discharge. Id. Defendant argues that

Plaintiff cannot make out a prima facie case of racial discrimination as required by Title VII because Plaintiff was not qualified for the position as a manager and because Plaintiff cannot present evidence that he was treated differently based on race. Defendant argues that Plaintiff's constant problems with anger management, lack of professionalism toward his staff and customers, and losing a MMI vendor is what resulted in MMI terminating Plaintiff as branch manager and offering him a sales position in Chicago. Alternatively, Defendant argues that even if Plaintiff can establish a prima facie case, the reason that Plaintiff was terminated was a legitimate non-discriminatory business decision. Plaintiff's complaint makes general accusations of discrimination but, Plaintiff's beliefs are not supported by any evidence.

Whether the evidence on summary judgment establishes a prima facie case of racial discrimination is a question of law which must be decided by the Court. Id. at 802. Initially, the burden rests with the Plaintiff to show evidence that a prima facie case of racial discriminations exists. Once shown the burden then shifts to the Defendant to "articulate some legitimate nondiscriminatory reason" for the employment action. Id. In order to establish a prima facie case of racial discrimination on summary judgment the Plaintiff must show: 1) that the Plaintiff belongs to a protective class; 2) that the Plaintiff was qualified for the position; 3) Plaintiff was subject to an adverse employment action despite being qualified; and 4) under circumstances that raise an inference of discriminatory action, the employer continued to seek out individuals with qualifications similar to the Plaintiff's to fill the position. Id.

Despite Defendant's argument to the contrary, there is evidence that Plaintiff was qualified for the position and no evidence has been produced that Plaintiff failed in his duties as branch manager in any other capacity than his 'adamant' voice. However, Plaintiff Conner must

present sufficient evidence to cast doubt upon the Defendant MMI's proffered explanations for Plaintiff's demotion. "We have stated that a plaintiff may avoid summary judgment by pointing to "some" evidence from which a factfinder could reasonably conclude that the defendant's proffered reasons were fabricated (pretextual)." Fuentes v. Perskie, 32 F.3d 759, \*764 (C.A.3 (N.J.),1994). Fuentes requires that Plaintiff Conner present evidence of racial discrimination beyond that of a mere feeling or belief. Id. Plaintiff has not met his burden. There is no dispute that Johnson received numerous complaints from MMI staff as well as customers and vendors and that Plaintiff was counseled about his combative nature on several occasions. Defendant has produced evidence that Plaintiff's argumentative behavior conflicted with MMI operating policy. Plaintiff does not deny the complaints regarding his temper but rather argues that his management style was more effective to his individual performance than MMI's operating procedures. Plaintiff has not proffered any evidence that rebuts Defendant's articulated reasons for the demotion. Although his belief that his management style was superior to company policy, Plaintiff fails to produce any evidence that the demotion was racially related. Plaintiff admits to using his loud 'adamant' voice to get employees to follow his orders. The only evidence that Plaintiff offers to show racial discrimination is a remote remark made by an individual who was not privy to the Plaintiff's evaluation for demotion. While I respect Plaintiff's belief that his authoritative use of his voice is his superior management method of choice; Plaintiff's inability to perform his duties as an MMI Branch Manager consistent with company policy does not undermine the legitimate business decision to demote Plaintiff from branch manager to sales person. Defendant offered Plaintiff Conner his previous position as a salesperson with an increase in salary, but Plaintiff refused. I have considered Plaintiff's assertions as to the remark

made in the past and his claims that he did not receive the identical training as all other MMI Branch Managers; however, upon the evidence before the court at this time, Plaintiff has not presented evidence to undermine the reasons proffered by the Defendant for the demotion and termination. Accordingly, Plaintiff's Motion for Summary Judgment will be denied. Defendant's Motion for Summary Judgment will be granted. An appropriate order follows.

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

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	:	
Plaintiff,	:	
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v.	:	NO. 04-1926
	:	
	:	
MOBILE MINI INC,	:	
	:	
Defendant.	:	

**ORDER**

**AND NOW**, this 28<sup>th</sup> day of April, 2005, **IT IS HEREBY ORDERED** that Plaintiff's Motion to Extend Discovery is **DENIED**. **IT IS FURTHER ORDERED** that Plaintiff's Motion for Summary Judgment is **DENIED** and Defendant's Motion for Summary Judgment is **GRANTED**.

**BY THE COURT:**

S/Clifford Scott Green

**CLIFFORD SCOTT GREEN, S.J.**

