NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-13932
Non-Argument Calendar

MOUATASEM ZIENNI,

Plaintiff-Appellant,

versus

MERCEDES-BENZ U.S. INTERNATIONAL, INC.,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Alabama
D.C. Docket No. 7:23-cv-01002-LSC

Before JORDAN, KIDD, and WILSON, Circuit Judges.

PER CURIAM:

Plaintiff-Appellant Mouatasem Zienni appeals the district court's order granting summary judgment to Defendant-Appellee Mercedez-Benz U.S. International, Inc. (MBUSI) in his

employment discrimination suit, in which he alleged that MBUSI denied him a religious accommodation to take breaks to pray at specific times throughout the workday, as is required by his Muslim faith. The district court granted summary judgment based on its determination that the record showed that MBUSI took no adverse employment action against Zienni. After careful review, we affirm.

I.

We review a district court's order granting summary judgment de novo. *See Vessels v. Atlanta Indep. Sch. Sys.*, 408 F.3d 763, 767 (11th Cir. 2005). Summary judgment is appropriate when the record establishes that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. *See* Fed. R. Civ. P. 56(a). All justifiable inferences will be drawn in favor of the non-moving party, but inferences based on speculation are not reasonable and "mere conclusions and unsupported factual allegations" cannot withstand a summary judgment motion. *Ellis v. England*, 432 F.3d 1321, 1327 (11th Cir. 2005).

II.

Title VII of the Civil Rights Act of 1964 makes it unlawful for an employer to discriminate against an employee "with respect to his compensation, terms, conditions, or privileges of employment" because of the employee's religion. 42 U.S.C. § 2000e-2(a)(1). Religion, under Title VII, includes "all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an

employee's . . . religious observance or practice without undue hardship." *Id.* § 2000e(j). An employee may establish a prima facie case of religious discrimination by demonstrating that: (1) an employment requirement conflicted with his sincere and bona fide religious belief; and (2) his employer took an adverse employment action against him because he could not comply with the requirement or because of the employer's perceived need for a religious accommodation. *Bailey v. Metro Ambulance Servs., Inc.*, 992 F.3d 1265, 1275 (11th Cir. 2021). If the employee establishes a prima facie case, the employer must show that it either: (1) offered the employee a reasonable accommodation; or (2) it would be unable to do so without undue hardship on its business. *Id.*

In *Muldrow v. City of St. Louis*, the Supreme Court clarified the appropriate standard for evaluating adverse employment actions. 601 U.S. 346 (2024). In *Muldrow*, a female police sergeant was transferred from the specialized intelligence division to a different job in the department, and a male officer took her place. *Id.* at 350-51. Although her new position had the same rank and pay, she no longer worked with high-ranking officials and instead supervised neighborhood patrol officers. *Id.* at 351. Because she no longer worked in the intelligence division, she lost her status as a deputized task force officer with the Federal Bureau of Investigation and lost a take-home car that came as part of the position. *Id.* at 350–51. Muldrow claimed that her transfer resulted from unlawful sex discrimination under Title VII. *Id.* at 351. The district court granted summary judgment to the city, stating that Muldrow had failed to a show that the transfer caused a "significant" change in

her working conditions and established a "material employment disadvantage." *Id.* at 352. The Supreme Court reversed, holding that a Title VII plaintiff must show that a transfer brought "some harm" as to an identifiable term or condition of employment, but need not show significant harm from the transfer. *Id.* at 354–55. To meet this lower standard, the Court stated that an employee need only show that there was a disadvantageous change to a term or condition of employment. *Id.* at 354. The Court determined that the employee met this standard because her responsibilities were reduced, her new schedule was more irregular, and she lost access to her take-home car. *Id.* at 359.

Here, Zienni worked on a moving assembly line at MBUSI, where he was given a scheduled lunch break and two other scheduled breaks. As a practicing Muslim, Zienni was required to pray five times a day at predetermined times, based on the sun's position in the sky. The times to pray changed daily and often fell outside the scheduled breaks. When it was time to pray, without specific permission from a supervisor, Zienni would flag a team leader down who would either personally cover Zienni's station or have a coworker do so. A supervisor with MBUSI, not Zienni's team leader, observed Zienni praying during an unscheduled break and said that he would not be allowed to take those breaks—an explicit denial of his religious accommodation. Despite this conversation, Zienni kept taking unscheduled breaks, never missed a prayer, and was never disciplined.

Zienni argues that he experienced harm because he was exposed to the risk of discipline for taking additional breaks. But MBUSI never disciplined or threatened to discipline Zienni. Further, as the district court noted, his ability to take unscheduled breaks was not a term or condition of employment for Title VII purposes. Zienni rests on a speculation about what would have happened if he was caught praying during an unscheduled break. But adverse action cannot be speculative. *See Jefferson v. Sewon Am. Inc.*, 891 F.3d 911, 921 (11th Cir. 2018); *Davis v. Town of Lake Park*, 245 F.3d 1232, 1239 (11th Cir. 2001), *overruled on other grounds by Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53 (2006). The Supreme Court's decision in *Muldrow* did not alter that requirement. Thus, any risk of discipline that Zienni experienced was too speculative to show a change in a term or condition of his employment.

Zienni also argues that he experienced psychological harm, depression, anxiety, the intangible consequence of being treated with lesser status than other employees, and like the employee in *Muldrow*, he experienced harm that was "rooted in esteem and job satisfaction." But, in *Muldrow*, the Supreme Court determined that the officer's injuries were the reduction of her responsibilities, the irregularity of her new schedule, and the loss of her take-home car. 601 U.S. at 359. Here, Zienni has identified no similar harm to a term or condition of his employment.

Thus, the district court did not err in granting summary judgment to MBUSI. The record shows that MBUSI took no

adverse employment action against Zienni because he experienced no harm to a term or condition of his employment.

AFFIRMED.