NOT FOR PUBLICATION

In the United States Court of Appeals For the Eleventh Circuit

No. 25-12916
Non-Argument Calendar

TYRONE FEESTER,

Plaintiff-Appellant,

versus

ROCKDALE COUNTY GOVERNMENT,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:24-cv-01456-SEG

Before WILLIAM PRYOR, Chief Judge, and ABUDU and ANDERSON, Circuit Judges.

PER CURIAM:

Tyrone Feester appeals the summary judgment in favor of Rockdale County, Georgia, and against his complaint of racial discrimination and retaliation under Title VII of the Civil Rights Act of 1964. *See* 42 U.S.C. § 2000e *et seq*. No reversible error occurred. We affirm.

I. BACKGROUND

On July 25, 2022, Feester began working as a part-time driver for the County's Senior Services Division under the supervision of Susan Clark and Deputy Director Susan Morgan. Before starting, Feester received copies of the County's non-discrimination and attendance policies. The latter policy provided that "[a]ny employee who fails to report to work for a period of three days or more without notifying his or her supervisor will be considered to have abandoned the job and voluntarily terminated the employment relationship."

Feester's employment was contingent on a satisfactory criminal background investigation. On July 26, 2022, Feester permitted the County to conduct his federal background check. On his authorization form, he identified his race as "AI," or American Indian. Several days later, on August 4, 2022, Morgan used this authorization and attempted to register Feester with the Georgia Applicant Processing Service, which works with the Georgia Department of Human Services to perform the fingerprinting part of their criminal background check. Because the Service lacked an "American Indian" option for race, Morgan selected "Native Ameri-

can/Alaskan Native." After the registration was declined, on September 12, 2022, Morgan asked Feester to verify his race and supply supporting documents. On September 13, 2022, Feester left work early. According to him, Morgan directed him to leave work early to retrieve documents to verify his race, a request he found "discriminatory, unnecessary, and inconsistent with [his] role as a non-direct care employee," and one he refused to fulfill. Feester never returned to work.

Morgan emailed Feester on September 15, 2022, at 9:26 a.m. She stated that she and Clark had "not heard from [him] since Tuesday (Sept 13)," that they were "very concerned about [him]," and that they needed to hear from him or else his job would be "considered abandoned as of 8[:00] a[.]m[.] September 16, 2022." She acknowledged that Feester was "a valuable member of [the] team," and that the County "want[ed] to work with [him]," but that it could do so only "if [he] contact[ed] [them]." According to Feester, he never received this email. Yet, that same day, at 9:53 a.m., he emailed a discrimination complaint against Morgan to Claudette Rancifer, the County's Recruitment and Retention Manager, and at 9:58 a.m., he also emailed the complaint directly to Andrea Davy, the County's Employee Relations Specialist.

In his complaint, Feester stated that Morgan had asked him to confirm his nationality after his registration was declined, and that, despite his doing so, she required him to supply supporting documents. He explained that this request made him feel "singled out," and that he could "no longer work in [his] particular [w]ork

[e]nvironment." He asked to be transferred to a different department, if possible, and stated that he had "lost all confidence in doing [his] assigned job." Davy acknowledged receipt of Feester's complaint and told him that someone would contact him, although no one ever contacted Feester about his complaint. Feester never followed up with the County about his employment.

Morgan terminated Feester for job abandonment on September 22, 2022. That same day, Feester submitted a complaint of discrimination to the Equal Employment Opportunity Commission, and on December 20, 2022, he filed a charge of discrimination with the Commission, which it dismissed in March 2024.

Feester sued the County in the district court. In his amended complaint, he alleged that the County violated Title VII of the Civil Rights Act of 1964, which prohibits racial discrimination and retaliation in employment. *See* 42 U.S.C. §§ 2000e-2(m), 2000e-*3*(a).

The County moved for summary judgment. Feester opposed the motion and contended that the County's demand to verify his race was unrelated to his job duties and had not been imposed on other employees. Feester identified Philip Saffo—an African American colleague in the same position—who he alleged was never required to verify his race.

The district court granted the County's motion after adopting a magistrate judge's recommendation over Feester's objections. The district court concluded that Feester did not "point to evidence that Morgan made the request or treated him less favora-

bly because of his race" and that "none of [the evidence] would allow a jury to infer intentional discrimination by the County." It also ruled that Feester had "failed to point to evidence creating a genuine issue as to pretext and [that] there is no circumstantial evidence beyond temporal proximity that raises a reasonable inference that the County retaliated against Feester."

II. STANDARD OF REVIEW

We review a summary judgment *de novo* and draw all reasonable inferences in the non-movant's favor. *Ismael v. Roundtree*, 161 F.4th 752, 758 (11th Cir. 2025). Summary judgment is appropriate when "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *Id.* (citation and internal quotation marks omitted); *see also* Fed. R. Civ. P. 56(a).

III. DISCUSSION

Title VII of the Civil Rights Act of 1964 prohibits employers from intentionally discriminating against an employee with respect to his "compensation, terms, conditions, or privileges of employment, because of [his] race." 42 U.S.C. § 2000e-2(a)(1). It also prohibits employers from retaliating against an employee "because he has opposed any practice made an unlawful employment practice by [Title VII], or because he has made a charge . . . under [Title VII]." *Id.* § 2000e-3(a).

One way an employee can establish discriminatory intent is under the "burden-shifting framework set out in *McDonnell Douglas*." *Hamilton v. Southland Christian Sch., Inc.*, 680 F.3d 1316, 1320

(11th Cir. 2012). Under that framework, the employee must establish a prima facie case of intentional discrimination or that he "belongs to a protected class," was "subjected to an adverse employment action," was "qualified to perform the job in question," and that his employer treated him less favorably than "similarly situated employees outside h[is] class." *Tynes v. Fla. Dep't of Juv. Just.*, 88 F.4th 939, 944 (11th Cir. 2023), *cert. denied*, 145 S. Ct. 154 (2024). If the employee establishes a prima facie case, his employer may proffer a "valid, non-discriminatory" reason for the adverse action. *Id.* If the employer does so, the employee must prove that the employer's reason was pretext for discrimination. *Id.*

An employee can also establish retaliatory intent under the *McDonnell Douglas* framework. *See Berry v. Crestwood Healthcare LP*, 84 F.4th 1300, 1307 (11th Cir. 2023). The employee must establish that he "engaged in statutorily protected conduct," "suffered an adverse employment action," and that "a causal relation exists between the two events." *Id.*; *see also Tolar v. Bradley Arant Boult Commings, LLP*, 997 F.3d 1280, 1289 (11th Cir. 2021). If the employee establishes a prima facie case, his employer may proffer a "legitimate, nonretaliatory reason" for the adverse action. *Berry*, 84 F.4th at 1307 (internal quotation marks omitted). If the employer does so, the employee must prove that the employer's reason was pretext for retaliation. *Id.*

The *McDonnell Douglas* framework is "not the only game in town" and does not override Federal Rule of Civil Procedure 56. *See Ismael*, 161 F.4th at 764-65. When an employer "comes forth

with evidence and successfully rebuts the presumption, the *McDonnell Douglas* framework—with its presumptions and burdens—is no longer relevant." *Id.* at 764 (citations and internal quotation marks omitted). *McDonnell Douglas* "simply drops out of the picture," and the district court must ask "whether the record, viewed in a light most favorable to the plaintiff, presents a convincing mosaic of circumstantial evidence that would allow a jury to infer intentional discrimination or retaliation by the decisionmaker." *Id.* (alteration adopted) (citations and internal quotation marks omitted).

Because we review a summary judgment *de novo*, we view the record without deference to the district court's analysis. We also dispense with Feester's argument that the district court improperly dismissed his due process claim. Feester made no procedural due process claim in his amended complaint. And he did not move to amend his complaint to include such a claim. *See* FED. R. CIV. P. 15.

Feester's complaint fails as a matter of law. We assume without deciding that he established a prima facie case of intentional racial discrimination and retaliation under Title VII. But the City explained that it asked Feester to verify his race due to a declined registration and that it fired him when he left work on September 13, 2022, and never returned. These explanations are legitimate, non-discriminatory, and non-retaliatory reasons for the County's actions. Because the City rebutted the presumption of racial discrimination and retaliation, we consider whether the record,

viewed in the light most favorable to Feester, presents enough evidence from which a jury could infer intentional discrimination and retaliation by the County. *See Ismael*, 161 F.4th at 764.

Even viewed as a whole and in the light most favorable to Feester, the evidence does not create a reasonable inference of intentional racial discrimination or retaliation. *See id.* There is no evidence that Morgan's request to Feester to provide supporting documentation of his race was motivated by his race. Feester's contention that the request was "discriminatory, unnecessary, and inconsistent with [his] role as a non-direct care employee" does not change that conclusion. *See Mayfield v. Patterson Pump Co.*, 101 F.3d 1371, 1376 (11th Cir. 1996) ("Conclusory allegations of discrimination, without more, are not sufficient to raise an inference of pretext or intentional discrimination where an employer has offered . . . extensive evidence of legitimate, non-discriminatory reasons for its actions." (alteration adopted) (citation and internal quotation marks omitted)). Morgan's request occurred within the context of a failed background check. Because the Georgia Applicant Processing Service's website lacked an option for "American Indian," Morgan selected "Native American/Alaskan Native," and requested documentation to verify that choice.

Feester's reliance on comparator Philip Saffo was insufficient to raise an inference of intentional racial discrimination because Feester failed to establish that Saffo, who held the same position, also experienced similar administrative hurdles with his background check, yet was not required to verify his race. *See*

Tynes, 88 F.4th at 947 ("[I]t is possible that [] comparators [a]re insufficient to establish a prima facie case yet still relevant to the ultimate question of intentional discrimination."). Feester's subjective dissatisfaction with his employer's request was not sufficient to transform Morgan's action into a discriminatory act. *See Kidd v. Mando Am. Corp.*, 731 F.3d 1196, 1204 (11th Cir. 2013) ("[A]n employee's subjective view of the significance and adversity of the employer's action is not controlling." (citation and internal quotation marks omitted)). The record does not contain substantial evidence that would allow a jury to infer intentional racial discrimination.

The evidence also does not create a reasonable inference of retaliation. *See Ismael*, 161 F.4th at 764. The County fired Feester for abandoning his job. Under County policy, an employee who fails to report to work for three consecutive days without notifying his employer is deemed to have abandoned his job and voluntarily terminated the employment relationship. The record confirms that Feester did not report to work on September 14, 15, and 16, 2022, and did not notify his supervisor. The record also contains no evidence that Feester was fired because he made a complaint of discrimination. For example, Feester points to no evidence of the County's failure to enforce its job abandonment policy consistently. Feester's reliance on temporal proximity alone is insufficient to allow a reasonable jury to infer that the County's enforcement of its attendance policy amounted to retaliation. *See Berry*, 84 F.4th at 1311 ("To survive summary judgment, the employee must present a *story*, supported by evidence, that would allow a reasonable

jury to find that the employer engaged in unlawful retaliation against the employee." (emphasis added)).

IV. CONCLUSION

We **AFFIRM** the summary judgment in favor of the County.