

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13627
Non-Argument Calendar

MICHAEL BRUTSMAN,

Plaintiff-Appellant,

versus

RAYTHEON TECHNOLOGIES CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:24-cv-00720-WFJ-NHA

Before ABUDU, TJOFLAT and ANDERSON, Circuit Judges.

PER CURIAM:

Michael Brutsman, proceeding pro se, appeals the District Court’s order granting summary judgment in favor of Raytheon Technologies Company (“Raytheon”) in his Florida Whistleblower Act (“FWA”) claim.¹ He argues that the Court erred by finding that he failed to establish that the reason for his termination was pre-textual. We affirm.

I. BACKGROUND

In May 2019, Raytheon hired Brutsman as an operations manager in its Largo, Florida facility. His position was fully on-site, but Raytheon allowed him to begin a hybrid schedule (three days per week on site, two remote) in January 2020. However, Raytheon allowed Brutsman to work fully remote beginning around March 2020, as the COVID-19 pandemic became a national public health concern.

In September 2021, Raytheon announced that all employees were required to be vaccinated for COVID-19 and to report their vaccination status unless they were approved for a religious or medical exemption. Employees that did not comply would be terminated.

Brutsman submitted a religious accommodation request on October 14, 2021. Raytheon conditionally granted his request. But full approval came with a few conditions. Brutsman had to agree

¹ See Fla. Stat. 448.102 (1). The District Court had jurisdiction under 28 U.S.C. § 1332.

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that, should he be needed on-site, he would: (1) wear a mask, (2) socially distance, and (3) submit a negative COVID-19 test within 72 hours of his arrival. Brutsman never requested a medical exemption.

Brutsman objected to the conditions to receive his religious accommodation. On November 17, 2021, Brutsman threatened to file an Americans with Disabilities Act (“ADA”) complaint if Raytheon terminated his employment for his refusal to comply with the conditions to his religious accommodation. Finding no conflict between Brutsman’s religious beliefs and the conditions of his accommodation and having received no medical documentation showing a need for alternative forms of testing or masking, Raytheon denied Brutsman’s religious exemption request. It noted that his request would be reevaluated if he changed his mind.

In December, Raytheon sent all employees a reminder of the testing and masking requirements for non-vaccinated employees, noting that termination was the consequence of noncompliance. It sent a second reminder in January 2022.

On February 3, 2022, Raytheon informed Brutsman that his deadline to agree to its conditions was the next day, February 4. The next day, Brutsman responded that he had “filed a 3 part complaint with the Equal Opportunity Employment Commission (“EEOC”)²

² The record indicates that Brutsman initially contacted the EEOC only after his termination. For the purposes of summary judgment, however, we will assume his assertion was truthful.

based on religious discrimination, disability discrimination, and retaliation for reporting discrimination.” Raytheon responded that its conditions were lawful. It demanded Brutsman convey his agreement to the conditions by the end of the day.

Brutsman never agreed to the added conditions. On February 11, 2022, Raytheon issued a written termination notice to Brutsman. Brutsman interviewed with the EEOC the same day and filed a written complaint shortly thereafter.

Brutsman sued Raytheon for retaliatory firing under the FWA in Florida’s Sixth Judicial Circuit on July 10, 2023. Raytheon timely removed the case in March 2024.³ District Court entered summary judgment in favor of Raytheon on September 15, 2025. It found that, while Brutsman had established a prima facie case of retaliation, Raytheon offered a legitimate reason for adverse employment action and Brutsman failed to establish that its reason was pretextual.

II. STANDARD OF REVIEW

We review a district court’s grant of summary judgment de novo. *Seamon v. Remington Arms Co.*, 813 F.3d 983, 987–88 (11th Cir. 2016). Summary judgment is appropriate only when “there is no genuine dispute as to any material fact and the movant is entitled

³ Raytheon initially removed the case on August 3, 2023. Brutsman sought remand and Raytheon did not oppose under reservation of right to remove again should the amount in controversy exceed \$75,000. The amount was met, and Raytheon timely removed the action in March 2024.

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to judgment as a matter of law.” Fed. R. Civ. P. 56(a). At this stage, we view the “record in the light most favorable to the [nonmoving] party, and we draw all reasonable inferences” in that party’s favor. *Stanely v. City of Sanford*, 83 F.4th 1333, 1337 (11th Cir. 2023). But unsupported “[s]peculation does not create a *genuine* issue of fact.” *Cordoba v. Dillard’s, Inc.*, 419 F.3d 1169, 1181 (11th Cir. 2005) (emphasis in original). Nor does a “mere scintilla of evidence” in support of the nonmoving party’s position suffice. *Allen v. Tyson Foods, Inc.*, 121 F.3d 642, 646 (11th Cir. 1997) (quotation marks omitted). “[T]here must be enough of a showing that the jury could reasonably find for [the nonmoving] party.” *Id.*

III. DISCUSSION

The FWA prohibits an employer from taking retaliatory action against an employee because the employee “[o]bjected to, or refused to participate in, any activity, policy, or practice of the employer which is in violation of a law, rule, or regulation,” including any statute, rule, or regulation “applicable to the employer and pertaining to the business.” Fla. Stat. § 448.102(3); *id.* § 448.101(4). The FWA also prohibits employers from taking retaliatory action if an employee discloses or threatens to disclose a similar activity, policy, or practice of the employer to any appropriate government agency. *Id.* § 448.102(1).

A.

Claims of retaliation may be supported with either direct or circumstantial evidence. *Lapham v. Walgreen Co.*, 88 F.4th 879, 889

(11th Cir. 2023). When pursuing a claim through circumstantial evidence, a plaintiff may succeed either by (1) utilizing the *McDonnell Douglas*⁴ burden shifting framework or (2) by successfully overcoming the typical summary judgment threshold without burden shifting. *Berry v. Crestwood Healthcare LP*, 84 F.4th 1300, 1310 (11th Cir. 2023) (“[A]n employee can prove retaliation with circumstantial evidence so long as the evidence raises a reasonable inference of retaliatory intent. . . . In other words, the *McDonnell Douglas* framework is not the only way to prove retaliation.”).

We have analogized the latter avenue to creating a “convincing mosaic” because the plaintiff is tasked with gathering sufficient circumstantial evidence that can, “when artfully adhered together and viewed as one, allow[] a reasonable juror to envision an image of retaliation and find in [the plaintiff’s] favor.” *Ismael v. Roundtree*, 161 F.4th 752, 764 (11th Cir. 2025). In other words, the plaintiff must present a convincing mosaic of unlawful behavior from the defendant. *See id.*; *Berry*, 84 F.4th at 1311. But to be clear, “[t]he convincing mosaic approach is—in its entirety—the summary judgment standard. That phrase is a metaphor, not a legal

⁴ *McDonnell Douglas v. Green*, 411 U.S. 792 (1973). While the *McDonnell Douglas* burden shifting framework originated in the Title VII context, this Court also applies it to FWA retaliation claims. *McAlpin v. Sneads*, 61 F.4th 916, 927 (11th Cir. 2023); *Sierminski v. Transouth Fin. Corp.*, 216 F.3d 945, 950 (11th Cir. 2000).

test and not a framework.” *McCreight v. AuburnBank*, 117 F.4th 1322, 1335 (11th Cir. 2024) (quotation marks omitted).⁵

Because the two approaches contain certain overlap, this Court recently outlined a roadmap for litigants and district courts to examine evidence at summary judgment. *See Ismael*, 161 F.4th at 764–65. First, we ask whether the plaintiff has established a prima facie case of retaliation. *Id.* In the FWA context, that requires a plaintiff to demonstrate: (1) that she engaged in statutorily protected conduct; (2) that she suffered an adverse employment action; and (3) some causal relation between the two.⁶ *McAlpin*, 61 F.4th 916, 927 (11th Cir. 2023).

If the plaintiff establishes a prima facie case, the burden shifts to the defendant to present a legitimate reason for the adverse employment action. *Ismael*, 161 F.4th at 764. Assuming the defendant fulfills this light burden, we “ask whether the record, viewed in a light most favorable to the plaintiff, presents a convincing mosaic

⁵ And a plaintiff does not need to “specifically use the term ‘convincing mosaic’ in the trial court to contend on appeal that [he] has offered enough evidence to survive summary judgment.” *Id.* at 1336

⁶ “[M]ere temporal proximity, without more, must be very close.” *Thomas v. Cooper Lighting, Inc.*, 506 F.3d 1361, 1364 (11th Cir. 2007) (quotation marks omitted). We have held that one week between the protected activity and the adverse action is “short enough to fall under the general rule of close temporal proximity.” *Patterson v. Ga. Pac., LLC*, 38 F.4th 1336, 1352 (11th Cir. 2022) (quotation marks omitted). “A three to four month disparity between the statutorily protected expression and the adverse employment action is not enough.” *Thomas*, 506 F.3d at 1364.

of circumstantial evidence that would allow a jury to infer intentional discrimination.” *Id.* (quotation marks omitted).⁷ Demonstrating that the employer’s reason was pretextual is helpful, “[b]ut a plaintiff’s inability to disprove the defendant’s rationale cannot be the sole grounds for summary judgment.” *Id.* The ultimate inquiry in an FWA case is whether “the desire to retaliate was the but-for cause of the challenged employment action,” meaning “the unlawful retaliation would not have occurred in the absence of the alleged wrongful action or actions of the employer.” *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338, 352 (2013).

The burden of demonstrating causation can be satisfied by showing, among other things, “(1) suspicious timing, ambiguous statements . . . and other bits and pieces from which an inference of discriminatory intent might be drawn, (2) systematically better treatment of similarly situated employees, and (3) that the employer’s justification is pretextual.” *Ismael*, 161 F.4th at 760 (quotation marks omitted).

B.

Although the District Court primarily focused on Brutsman’s inability to show pretext, which *Ismael* instructs is insufficient to grant summary judgment, we conclude Brutsman also failed to create “convincing mosaic of circumstantial evidence that

⁷ There are two alternative pathways. If the plaintiff fails at step one to establish a prima facie case, we “advance directly to the convincing mosaic inquiry.” *Id.* at 765. And if the defendant fails to proffer a legitimate reason at step two, the plaintiff is entitled to summary judgment. *Id.* at 764.

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would allow a jury to infer intentional discrimination [or retaliation] by the decisionmaker.” *Smith v. Lockheed-Martin Corp.*, 644 F.3d 1321, 1328 (11th Cir. 2011). As such, we affirm the District Court’s decision.

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First, Brutsman established a *McDonnell Douglas* prima facie case of retaliation under the FWA. Brutsman engaged in protected activity under the FWA when he threatened to file an ADA complaint on November 17, 2021, and when he informed Raytheon that he filed a complaint with the EEOC on February 4, 2022. *See Donnellon v. Fruehauf Corp.*, 794 F.2d 598, 600–01 (11th Cir. 1986) (Ruling that filing a discrimination complaint with the EEOC is a protected activity under the *McDonnell Douglas* framework.) He suffered an adverse employment outcome when he was terminated on February 11, 2022. *See id.* And, because the timing was so close between Brutsman’s protected activity and his firing, he demonstrated at least plausible causation. *See id. at* 601 (Ruling that a one-month time gap between engaging in a protected action and termination shows enough causation to sustain a prima facie case under the *McDonnell Douglas* framework.) The District Court therefore properly shifted the burden of production to Raytheon.

Second, Raytheon successfully asserted the protection of its employees’ health and safety as a legitimate, non-retaliatory, reason for Brutsman’s termination. The District Court properly shifted the burden back to Brutsman.

Third, after thorough consideration of all the available evidence, the District Court concluded that Brutsman failed to show that Raytheon's proffered reason for terminating Brutsman was pretextual and granted summary judgment to Raytheon. This, of course, was the very result *Ismael* cautioned against. 161 F.4th at 764 ("A showing of pretext (or lack thereof) [is] certainly . . . relevant. But a plaintiff's inability to disprove the defendant's rationale cannot be the sole grounds for summary judgment."). "[S]ummary judgment should not be granted for failure to demonstrate pretext unless it also 'reflects a failure to put forward enough evidence for a jury to find for the plaintiff on the ultimate question of discrimination' or retaliation." *Id.* at 763 (quoting *Tynes v. Fla. Dep't of Juv. Just.*, 88 F.4th 939, 947 (11th Cir. 2023)).

If we were limited to the same reasoning as the District Court, we might remand in light of *Ismael*, which was decided after the District Court entered its order in this case. Compare 161 F.4th 752, with *Brutsman v. Raytheon Techs. Corp.*, No. 8:24-CV-720-WFJ-NHA, 2025 WL 2644951 (M.D. Fla. Sept. 15, 2025). But, to the contrary, we may affirm a grant of summary judgment "on any ground supported by the record, regardless of whether that ground was relied upon or even considered by the district court." *Kernel Recs. Oy v. Mosley*, 694 F.3d 1294, 1309 (11th Cir. 2012). Ultimately, we agree that Brutsman's claim cannot prevail, even under the "convincing mosaic" standard.

Apart from the proximate timing between his EEOC threat and his termination, Brutsman did not point to any ambiguous

statements, systematically better treatment of similarly situated employees,⁸ or other evidence to suggest that Raytheon acted with an improper motive. To the contrary, Raytheon provided evidence that all employees were subject to the vaccine requirement and conditions to receive an exemption. Moreover, it offered evidence that over 100 employees, including forty-one in Brutsman's business unit, were similarly terminated for failure to comply with the vaccination requirement or receive an exemption.

Even in the light most favorable to Brutsman, there is no evidence from which a reasonable jury could infer that the EEOC complaint was the but-for cause of Brutsman's termination. Rather, the record indicates that Brutsman would have been fired for failure to comply with the vaccination requirements even had he not threatened to file with the EEOC. Stated differently, Brutsman failed to create a convincing mosaic of circumstantial evidence that would allow a jury to infer intentional retaliation by the decisionmaker. As such, his claim must fail.

IV.

For the foregoing reasons, the District Court's grant of summary judgment is affirmed.

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⁸ In his brief, Brutsman alleged differing treatment of a fellow employee, Thea Tansey. However, he did not offer any evidence showing how this treatment was systematic. Moreover, he did not offer evidence showing that Tansey was similarly situated in that she failed to receive an exemption.