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**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

VALERIE DAVIS et al.,

Plaintiffs,

v.

CASE NO. 4:13cv31-RH/CAS

FLORIDA AGENCY FOR HEALTH
CARE ADMINISTRATION,

Defendant.

_____ /

ORDER DIRECTING THE ENTRY OF JUDGMENT

In this employment-discrimination case, two plaintiffs challenged their treatment within the St. Petersburg regional legal office of the defendant Florida Agency for Health Care Administration (“AHCA”). The plaintiff Valerie Davis was a paralegal who applied for an open position that would have been a promotion; when the position went to someone else, Ms. Davis asserted that the reason was race. The plaintiff James H. Harris was an attorney who supervised Ms. Davis and supported her assertion. He was later terminated.

Ms. Davis and Mr. Harris brought this action against AHCA. Ms. Davis alleged racial discrimination in the promotion decision and retaliatory mistreatment

after she complained. Mr. Harris alleged that his termination, and other mistreatment that preceded it, were retaliatory.

I granted summary judgment for AHCA against Mr. Harris. I did *not* direct the entry of judgment under Federal Rule of Civil Procedure 54(b).

Ms. Davis's claims went to trial. At the close of all the evidence, AHCA moved for judgment as a matter of law. I took the motion under advisement and submitted the case to the jury.

The jury found that race was *not* a motivating factor in AHCA's promotion decision. The motion for judgment as a matter of law on that claim is moot.

The jury also found, however, that AHCA subjected Ms. Davis to materially adverse treatment because she complained in good faith about racial discrimination. This order denies the motion for judgment of a matter of law on that claim. The order directs the entry of judgment on all claims.

On the motion for judgment as a matter of law on the retaliation claim, the issue is whether, on the evidence presented at trial, a reasonable jury could find two things.

The first was that Ms. Davis complained in good faith about racial discrimination in the promotion decision. The evidence of this was clear and not reasonably subject to dispute. Ms. Davis explicitly complained to AHCA that she did not get the promotion because of her race. The jury ultimately found that race

was not a factor in the promotion decision, but there were easily sufficient grounds for Ms. Davis to make her complaint in good faith. Ms. Davis had worked in the office for years and had received nearly perfect annual evaluations. For months prior to the promotion decision, she had been performing her own job and many of the functions of the open position. The only explanation Ms. Davis was given for the selection of another applicant was that the other applicant was a “better fit.” Ms. Davis, who is African American, could reasonably—although as it turns out erroneously—have believed “better fit” meant “white.”

The second issue was whether, because of Ms. Davis’s complaint of racial discrimination, AHCA subjected Ms. Davis to materially adverse treatment—treatment that well might have dissuaded a reasonable employee from making a charge of discrimination. *See Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 68 (2006) (adopting this standard). The Eleventh Circuit broadly interprets the “well might have dissuaded” standard. *See Crawford v. Carroll*, 529 F.3d 961, 974 n. 13 (11th Cir.2008).

Here the evidence that Ms. Davis suffered materially adverse treatment was strong. Indeed, AHCA did not seem to assert at trial that Ms. Davis was not treated inappropriately, nor could it reasonably have done so. At about the time of Ms. Davis’s discrimination complaint, the St. Petersburg office became an especially unpleasant place for Ms. Davis; she was constantly belittled. AHCA’s

only real defense was that the attorney responsible for most of the mistreatment, Suzanne Hurley, was a harsh supervisor who treated everyone poorly—that the mistreatment of Ms. Davis had nothing to do with her discrimination complaint.

AHCA's contention was not without evidentiary support. Ultimately, though, it was the province of the jury to make the necessary credibility determinations and to decide whether Ms. Davis would have suffered the same mistreatment had she not complained of racial discrimination. After a full and fair trial, the properly instructed jury found that Ms. Davis suffered materially adverse treatment—a term that was defined properly and without objection—because of her discrimination complaint. The evidence was sufficient to sustain the verdict.

For these reasons,

IT IS ORDERED:

1. AHCA's motion for judgment as a matter of law, as made orally at the close of all the evidence at trial, is DENIED.

2. The clerk must enter a judgment based on the summary-judgment ruling and jury verdict providing that Ms. Davis recover \$240,000 in damages against AHCA on the retaliation claim, that Ms. Davis recover nothing on the racial-discrimination claim, and that Mr. Harris recover nothing.

SO ORDERED on May 26, 2014.

s/Robert L. Hinkle
United States District Judge