

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA

THIRD DISTRICT

NOVEMBER 06, 2020

ISABEL DEL PINO ALLEN,
Appellant(s)/Petitioner(s),

CASE NO.: 3D20-0386

vs.

L.T. NO.: 15-25946

THE BOARD OF TRUSTEES OF MIAMI
DADE COLLEGE,
Appellee(s)/Respondent(s),

Appellee's Response in Opposition to Appellant's pro se Motion for
Issuance of a Written Opinion, Rehearing, and Rehearing En Banc, filed on
October 21, 2020, is noted.

Appellant's pro se Reply to Appellee's Response filed on October 21,
2020, is also noted.

Upon consideration, Appellant's pro se Motion for Issuance of a
Written Opinion and Rehearing is hereby denied.

LINDSEY, LOBREE and BOKOR, JJ., concur.

Appellant's pro se Motion for Rehearing En Banc is denied.

EMAS, C.J., and FERNANDEZ, LOGUE, SCALES, LINDSEY,
MILLER, GORDO, LOBREE and BOKOR, JJ., concur.

HENDON, J., recused.

A True Copy

ATTEST

Mercedita M. Puito

CLERK

DISTRICT COURT OF APPEAL

THIRD DISTRICT

cc:

Luke C. Savage

Isabel Del Pino Allen

la

Third District Court of Appeal

State of Florida

Opinion filed October 14, 2020.

Not final until disposition of timely filed motion for rehearing.

No. 3D20-386

Lower Tribunal No. 15-25946

Isabel Del Pino-Allen,
Appellant,

vs.

The Board of Trustees of Miami Dade College,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Veronica A. Diaz,
Judge.

Isabel Del Pino-Allen, in proper person.

Allen Norton & Blue, P.A., and Luke Savage, for appellee.

Before LINDSEY, LOBREE and BOKOR, JJ.

PER CURIAM.

Affirmed.

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

Appendix A (iv)

CASE NO: 2015-025946-CA-01

SECTION: CA05

JUDGE: Veronica Diaz

Isabel Del Pino Allen

Plaintiff(s)

vs.

Miami Dade College et al

Defendant(s)

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

THIS CAUSE, having come before the Court upon *Defendant's Motion for Summary Judgment*. The Court has reviewed the motion and all relevant pleadings and filings, heard argument from the parties at a special set hearing on February 25, 2020, and is fully advised in the premises. Accordingly, having drawn every possible inference in favor of the Plaintiff, it is ORDERED and ADJUDGED that Defendant's Motion for Summary Judgment is GRANTED.

To establish a *prima facie* case of retaliation under the Whistle-blower's Act, the Plaintiff must show that: (1) she engaged in in statutorily protected activity; (2) she suffered an adverse employment action; and (3) there is a causal relation between the two events. In the instant case, it is undisputed that the Plaintiff was terminated. However, the Plaintiff did not engage in any protected expression as required under the Act. Furthermore, Plaintiff cannot show that there is a connection between any allegedly protected expression and her termination from employment. Plaintiff's only arguable protected disclosures – her February 9, 2015 letter addressed to the College President and her follow-up letter of April 8, 2015 concerning the same subject – do not qualify for protection under the Whistle-blower's Act. The two letters authored by Plaintiff do not contain information protected by section 112.3178(5), Florida Statutes. Plaintiff's alleged "whistle-blower" complaints of February 9, 2015 and April 8, 2015 are also not causally related to the Defendant's decision to terminate her employment for misconduct stemming from an internal investigation that commenced in September 2014. Accordingly, summary judgment is entered for Defendant on Plaintiff's Whistle-blower's Act retaliation claim.

With respect to Plaintiff's discrimination claims, the Plaintiff is likewise unable to establish a *prima facie* case of religion or disability discrimination under the Florida Civil Rights Act. There is absolutely no evidence to support Plaintiff's claim of religious discrimination, the basis of her claim being that the Defendant discriminated against her by

refusing to investigate her complaint of discrimination made after she had been notified of the College's intent to terminate her employment. Moreover, Plaintiff's complaint concerned a statement that her colleague allegedly made to her a year and a half prior. Even if Plaintiff were able to show discriminatory intent on the part of the Defendant, Plaintiff has failed to show that the Defendant's non-discriminatory and legitimate business reasons for termination were pretextual. There is also absolutely no evidence to support Plaintiff's claim of disability discrimination. Plaintiff is unable to establish that she was disabled or that the Defendant terminated her in May 2015 because of request to use a wheelchair for a couple days in 2013, which the Defendant granted. It is also undisputed that Plaintiff is not disabled. Even if Plaintiff had established that she was disabled, Plaintiff has failed to show that the Defendant's non-discriminatory and legitimate business reasons for Plaintiff's termination were pretextual.

Drawing every possible inference in favor of the Plaintiff, the Plaintiff is unable to demonstrate that the Defendant's legitimate, non-discriminatory and non-retaliatory reasons for terminating her employment were pretextual. The Plaintiff has not come forward with sufficient evidence to allow a fact finder to disbelieve the Defendant's proffered explanation for Plaintiff's termination. Plaintiff has failed to come forward with any summary judgment evidence to rebut the Defendant's legitimate reasons and establish pretext. Accordingly, final summary judgment is entered for the Defendant. Plaintiff's Third Amended Complaint is dismissed with prejudice.

DONE and ORDERED in Chambers at Miami-Dade County, Florida on this 26th day of February, 2020.

2015-025946-CA-01 02-26-2020 1:28 PM

2015-025946-CA-01 02-26-2020 1:28 PM

Hon. Veronica Diaz

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

Copies Furnished To:

Armando Pedro Rubio , Email : service@fieldshowell.com

Armando Pedro Rubio , Email : Arubio@fieldshowell.com

Isabel Regina Del Pino Allen , Email : idelpinoallen@gmail.com

Isabel Regina Del Pino Allen , Email : jevcaa@gmail.com

Jenna N Kochen , Email : asalgado@anblaw.com

Supreme Court of Florida

THURSDAY, NOVEMBER 12, 2020

CASE NO.: SC20-1654

Lower Tribunal No(s):
3D20-386; 132015CA025946000001

ISABEL DEL PINO-ALLEN

vs.

THE BOARD OF TRUSTEES OF
MIAMI DADE COLLEGE

Petitioner(s)

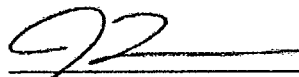
Respondent(s)

This case is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. *See Wheeler v. State*, 296 So. 3d 895 (Fla. 2020); *Wells v. State*, 132 So. 3d 1110 (Fla. 2014); *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006); *Gandy v. State*, 846 So. 2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987); *Dodi Publ'g Co. v. Editorial Am. S.A.*, 385 So. 2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980).

No motion for rehearing or reinstatement will be entertained by the Court.

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Test:



John A. Tomasino

Clerk, Supreme Court



td

Served:

LUKE SAVAGE

HON. MERCEDES M. PRIETO, CLERK

HON. VERONICA ADRIANA DIAZ, JUDGE

HON. HARVEY RUVIN, CLERK

ISABEL DEL PINO ALLEN

**Additional material
from this filing is
available in the
Clerk's Office.**