APPENDIX

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APPENDIX A

In the
United States Court of Appeals
For the Seventh Circuit

No. 20-1530

[Filed: March 19, 2021]

VAUN MONROE,

Plaintiff-Appellant,

v.

COLUMBIA COLLEGE CHICAGO and BRUCE SHERIDAN,

Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 1:17-cv-05837 — **Thomas M. Durkin**, *Judge.*

ARGUED SEPTEMBER 22, 2020

—

DECIDED MARCH 19, 2021

Before SYKES, *Chief Judge*, and FLAUM and ROVNER, *Circuit Judges.*

ROVNER, *Circuit Judge*. Vaun Monroe, who was denied tenure at Columbia College of Chicago, has sued the College on a variety of theories alleging principally that the adverse tenure decision was tainted by race discrimination. Count IV of Monroe's amended complaint asserts a claim under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, for being subject to discrimination in a federally-funded program or activity. R. 50 at 22–23. In a separate order issued contemporaneously with this opinion, we resolve Monroe's other claims against the College and his former department chairperson, Bruce Sheridan. In this opinion, we address a question of first impression in this circuit as to which state statute of limitations applies to Title VI claims. *See Allen v. Bd. of Governors of State Colls. & Univs.*, 78 F.3d 586 (table), 1996 WL 102678, at *2 (7th Cir. Mar. 6, 1996) (unpublished order) (reserving this question).

Title VI provides that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." § 2000d. The statute does not specify a limitations period, so we look to the limitations period specified by Illinois law for the most analogous type of claim, *see generally Bd. of Regents of Univ. of State of N.Y. v. Tomanio*, 446 U.S. 478, 483–84, 100 S. Ct. 1790, 1794–95 (1980);[1] and the pertinent question here is

[1] Congress has specified a catchall four-year statute of limitations for federal claims, but only for civil actions "arising under an Act of Congress enacted after the date of the enactment of this section

whether the correct period is the state's five-year catchall limitations period for civil claims, *see* 735 ILCS 5/13-205, or the two-year period for personal injuries, *see* 735 ILCS 5/13-202. If the latter limitations period governs, as the district court held, *Monroe v. Columbia Coll. Chicago*, 2020 WL 1503593, at *4–5 (Mar. 30, 2020), then there is no doubt that Monroe's Title VI claim is untimely, as it was filed more than two years after the discriminatory actions he challenges in this suit took place.

Although the district courts in this circuit are divided as to the appropriate limitations period to reference for Title VI claims,[2] it appears that every

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[on December 1, 1990]." 28 U.S.C. § 1658(a). For actions authorized by previously-enacted statutes, including Title VI, courts continue to borrow the limitations period from state law. *See Jones v. R.R. Donnelley & Sons Co.*, 541 U.S. 369, 382, 124 S . Ct. 1836, 1845 (2004).

[2] Compare *Monroe*, 2020 WL 1503593, at *4–5; *Rogers v. Allen Superior Ct.*, 2017 WL 879635, at *3 (N.D. Ind. Mar. 6, 2017); *Robbins v. DePaul Univ.*, 2014 WL 7403381, at *2 & n.2 (N.D. Ill. Dec. 29, 2014); *Davis v. City of Springfield*, 2012 WL 5471951, at *7–8 (C.D. Ill. Nov. 9, 2012) (applying Illinois' and Indiana's two-year statutes of limitations for personal injuries), with *Edwards v. Alexander Cnty. Hous. Auth.*, 2021 WL 101340, at *5 (S.D. Ill. Jan. 12, 2021); *Brewer v. Bd. of Trustees of Univ. of Ill.*, 407 F. Supp. 2d 946, 961 (C.D. Ill. 2005), *j. aff'd on other grounds*, 479 F.3d 908 (7th Cir. 2007); *Allen v. Bd. of Governors of State Colls. & Univs.*, 1993 WL 69674, at *2 (N.D. Ill. Mar. 11, 1993), *reconsideration denied*, 1993 WL 462856 (N.D. Ill. Nov. 9, 1993), *j. aff'd on other grounds*, 78 F.3d 586 (table), 1996 WL 102678 (7th Cir. Mar. 6, 1996); *Lewis v. Russe*, 713 F. Supp. 1227, 1232 (N.D. Ill. 1989) (applying Illinois' five-year catchall limitations period for civil claims), *j. summarily aff'd*, 972 F.2d 351 (table), 1991 WL 352444

other circuit to address the issue has agreed that the court should reference the state limitations period for personal injury torts. *See Sewell v. Monroe City Sch. Bd.*, 974 F.3d 577, 583 (5th Cir. 2020); *Thomas v. Advance Hous., Inc.*, 475 F. App'x 405, 406–07 (3d Cir. 2012) (per curiam) (non-precedential decision); *Jersey Heights Neighborhood Ass'n v. Glendening*, 174 F.3d 180, 187 (4th Cir. 1999); *Rozar v. Mullis*, 85 F.3d 556, 561 (11th Cir. 1996); *Egerdahl v. Hibbing Cmty. Coll.*, 72 F.3d 615, 618 (8th Cir. 1995); *Taylor v. Regents of Univ. of Cal.*, 993 F.2d 710, 712 (9th Cir.1993); *Baker v. Bd. of Regents of State of Kansas*, 991 F.2d 628, 630–32 (10th Cir. 1993).

Our sister circuits have emphasized that a Title VI claim, although aimed at the discriminatory use of federal funds, is one that ultimately seeks to vindicate personal rights. As the Tenth Circuit has explained:

> The goal of Title VI is to "safeguard against the use of federal funds in a way that encourages or permits discrimination." 1964 U.S.C.C.A.N. 2391, 2510–13 (1964); *see also Regents of Univ. of California v. Bakke*, 438 U.S. 265, 98 S. Ct. 2733 (1978); *Brown v. Board of Educ. of Topeka*, 892 F.2d 851, 887 (10th Cir.1989). Title VI is a civil rights statute, and we believe that it is closely analogous to [42 U.S.C.] sections 1983 and 1981. The language of Title VI specifically

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(7th Cir. April 29, 1991) (unpublished order). *See also C.S. v. Couch*, 843 F. Supp. 2d 894, 906 n.15 (N.D. Ind. 2011) (noting that "[i]n the Seventh Circuit … the statute of limitations for Title VI claims is somewhat unclear" but finding it unnecessary to reach the issue).

> refers to discrimination against a "person." This language is similar to that in sections 1983 and 1981, which language protects a "person" from deprivation of rights, and which provides equal rights under the law to all "persons." An injury resulting from discrimination produces impairments and wounds to the rights and dignities of the individual. *Burke v. United States*, 929 F.2d 1119, 1121–22 (6th Cir.1991), *rev'd on other grounds*, 504 U.S. 229, 112 S. Ct. 1867 (1992).

Baker, 991 F.2d at 631. *See also Jersey Heights Neighborhood Ass'n*, 174 F.3d at 187; *Rozar*, 85 F.3d at 561.

We agree that a Title VI claim is analogous to a state claim for personal injuries to the extent that it seeks recompense for an injury to one's individual rights. As such, it should be governed by the limitations period that a state has specified for personal injury claims. In Illinois, that is two years. 735 ILCS 5/13-202. *See Bush v. Commonwealth Edison Co.*, 990 F.2d 928, 933 (7th Cir. 1993) (applying same statute of limitations to claims under section 504 of Rehabilitation Act of 1973, 29 U.S.C. § 794, which prohibits disability discrimination in federally funded programs).

In resisting that conclusion, Monroe relies on this court's 40-plus year-old decision in *Beard v. Robinson*, 563 F.2d 331, 338 (7th Cir. 1977), which broadly stated that "the Illinois five-year statute of limitations applies to statutory claims brought under the Civil Rights Acts." But *Beard* specifically concerned claims under

sections 1981 and 1983 and *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388, 91 S. Ct. 1999 (1971), not Title VI. Moreover, after *Beard* was decided, the Supreme Court held that the applicable statute of limitations for section 1981 and section 1983 claims is the state period for personal injury torts. *See Wilson v. Garcia*, 471 U.S. 261, 276–80, 105 S. Ct. 1938, 1947–49 (1985) (§ 1983); *Owens v. Okure*, 488 U.S. 235, 109 S. Ct. 573 (1983) (same); *Goodman v. Lukens Steel Co.*, 482 U.S. 656, 660-62, 107 S. Ct. 2617, 2620–21 (1987) (§ 1981).[3] "'Title VI is a civil rights statute [that is] closely analogous to sections 1983 and 1981.' Indeed, a plaintiff suing a federally-supported program for racial discrimination may bring a claim under any one of these three laws." *Egerdahl*, 72 F.3d at 618 (quoting *Baker*, 991 F.2d at 631). Therefore, we see no reason to treat Title VI claims differently for limitations purposes. *See Baker*, 991 F.2d at 631 ("Our general characterization of Title VI claims as actions for injury to personal rights promotes a consistent and uniform framework by which suitable statutes of limitations can be determined for civil rights claims.") (citation omitted); *see also Egerdahl*, 72 F.3d at 618 ("the federal interest in uniformity and certainty" counsels in favor of treating Title VI claims similarly with sections 1981 and 1983 claims for limitations purposes); *Rozar*, 85 F.3d at 561 (same).

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[3] In the wake of *Wilson*, we have likewise applied the same personal injury statute of limitations to *Bivens* claims. *See Delgado-Brunet v. Clark*, 93 F.3d 339, 342 (7th Cir. 1996).

The two-year period in Illinois for personal injury claims applies, and Monroe's Title VI claim was therefore untimely. The district court properly entered summary judgment against Monroe as to Count IV of the amended complaint on this basis.

AFFIRMED

APPENDIX B

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with
Fed. R. App. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

No. 20-1530

[Filed: March 19, 2021]

Argued September 22, 2020
Decided March 19, 2021

Before

DIANE S. SYKES, *Chief Judge*

JOEL M. FLAUM, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

VAUN MONROE,	)
Plaintiff-Appellant,	)
	)
v.	)
	)
COLUMBIA COLLEGE CHICAGO	)
and BRUCE SHERIDAN,	)
Defendants-Appellees.	)
	)

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 1:17-cv-05837

Thomas M. Durkin,
Judge.

O R D E R

After he was denied tenure at Columbia College of Chicago, Vaun Monroe sued Columbia and his former department chairperson, Bruce Sheridan, on various federal claims of race discrimination and on state law theories. The district court resolved all of the claims in favor of the defendants on motions to dismiss and for summary judgment. A separate opinion issued contemporaneously with this order resolves Monroe's Title VI claim. In this order, we affirm the judgment as to his other claims.

I.

Monroe was hired by Columbia College as a tenure-track faculty member in 2007. He was the first Black man hired as a tenure-track instructor in the college's film and video department. Sheridan was the chairman of that department.

During his first year, Monroe received several negative course evaluations. (Among other criticisms, some students objected to his focus on works by Black artists.) Sheridan met with Monroe to discuss the evaluations. Monroe, concerned about the weight

Sheridan was placing on student evaluations, pointed out that the criticisms might be the result of implicit bias against faculty members of color. Sheridan accused him of "playing the race card" and not assuming responsibility for his classroom. During Monroe's second year, a student created a racially-charged website about him, which department personnel told him to ignore.

Monroe underwent a formal review in his third year as a tenure-track faculty member, which was designed both to give him feedback on his performance and produce a recommendation as to whether he should continue on the tenure track or be terminated. Sheridan participated in (indeed, directed) the faculty review despite questions as to whether he should do so as department chair; he raised the issue of Monroe's critical student evaluations. The participating faculty members ultimately voted yes/no on each of three performance areas considered for tenure: Monroe received zero yes votes on teaching and curriculum development, 16 yes votes and one no vote on creative or scholarly work, and nine yes and eight no votes on community service. Sheridan and the Dean of Media Arts subsequently prepared reports which raised concerns about Monroe's teaching. Academic Affairs Vice President Louise Love declined to renew Monroe's appointment for the following year. But Monroe filed a successful grievance challenging that decision principally on the ground that no tenured faculty members had observed his classroom performance as the College's evaluation procedures specified. Columbia President Warrick Carter reversed the decision not to

renew Monroe's contract for the 2011-2012 academic year.

Monroe alleges that following Carter's reversal, Sheridan was hostile to Monroe and retaliated against him by, *inter alia*, assigning him to teach only introductory-level classes, assigning a white male with lesser qualifications to teach graduate-level directing courses (where Monroe had previously received his best evaluations), choosing white non-tenure track lecturers to fill various screenwriting and administrative program coordinator provisions, and engaging in "hyper-surveillance" of Monroe and threatening him with investigations (that never materialized) of even minor infractions.

When Monroe's tenure evaluation began in 2012, the reviewing department faculty approved his tenure application by a vote of 9-5. Although their report cited continuing concerns that Monroe did not provide timely feedback to students and respond to student communications, it indicated that his teaching and teaching-related performance had improved substantially. Sheridan, who did not participate in that review, wrote a separate, eight-page memorandum as Monroe's department chair acknowledging improvements in Monroe's performance while indicating that substantial concerns remained regarding his reliability and punctuality, the discharge of his duties as to student advising, and the thoroughness of his teaching methodology. Sheridan also excerpted a negative student evaluation from a course where the comments otherwise were overwhelmingly positive. Sheridan opined that

Monroe's performance in teaching and teaching-related activity did not meet the requirements for tenure.

The All College Tenure Committee voted unanimously to deny Monroe tenure, noting that his "efforts have consistently fallen short of both the department's and the college's standards" and that "two of his three reviewers did not endorse his tenure bid." Vice President (and interim Provost) Love advised Monroe in March 2013 that she had decided not to grant him tenure.

Monroe appealed the denial of tenure to Columbia's incoming President, Kwang-Wu Kim. On August 12, 2013, Kim rejected the appeal and affirmed Love's decision as Provost to deny him tenure. Monroe concluded his terminal year of employment in May 2014.

In September 2013, about one month after Kim's decision, Monroe filed a discrimination charge with the Chicago Commission on Human Relations. Monroe eventually filed a Title VII charge of race discrimination and retaliation with the Equal Employment Opportunity Commission ("EEOC") on February 7, 2014, but this was more than 300 days after Love denied his application for tenure. The EEOC accepted and investigated Monroe's charge and eventually issued a right-to-sue letter on May 12, 2017, without reaching a conclusion as to the merits (or the timeliness) of his charge.

Monroe filed this suit in August 2017 after the EEOC issued his right-to-sue letter. Counts I and II of his amended complaint set forth claims of race

discrimination and retaliation in violation of Title VII. Counts III and IV set forth similar claims of race discrimination in violation of 42 U.S.C. § 1981 (right to make and enforce contracts) and Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d (proscribing discrimination in federally funded programs). Counts V and VI set forth state-law claims for intentional interference with contract and tortious interference with a prospective economic advantage. R. 50.

The district court dismissed Counts I through III as untimely. At the outset, the court agreed with Columbia that Provost Love's tenure decision in March 2013 was the operative, final employment action for purposes of determining when the 300-day limitations period for Title VII claims began to run. President Kim's August 2013 decision simply amounted to appellate review of that otherwise final decision. Because Monroe did not file his EEOC charge until February 2014, some 326 days after Love's tenure decision, Counts I and II were untimely filed. *Monroe v. Columbia Coll. of Chicago*, 2018 WL 1726426, at *2–4 (N.D. Ill. April 10, 2018) (applying *Delaware State Coll. v. Ricks*, 449 U.S. 250, 260–61, 101 S. Ct. 498, 505–06 (1980)). *See Lever v. Northwestern Univ.*, 979 F.2d 552, 554–56 (7th Cir. 1992).

Although Monroe argued that certain discriminatory conduct against him continued beyond Love's tenure decision through May 2014, when his terminal year of employment at Columbia concluded, the court reasoned that none of the conduct identified constituted an adverse employment action with tangible consequences. *Monroe v. Columbia Coll. of*

Chicago, 2018 WL 4074190, at *3–4 (N.D. Ill. Aug. 27, 2018).

Monroe also alleged that he was subject to a hostile working environment that continued through his final year, but the district court was not convinced that the conduct he identified as harassing rose to the level of a hostile environment. *Id.*, at *5.

Finally, Monroe contended that Columbia ought to be equitably estopped from challenging the timeliness of his complaint, but the court rejected this argument also. The court noted that equitable estoppel requires some sort of deliberate, deceptive conduct on the part of the defendant that caused the untimeliness. Apart from his own decision to originally file his discrimination charge in the wrong forum (with which Columbia had nothing to do), Monroe alleged only that Columbia had "lulled" him into thinking that it was the President rather than the Provost who was the final decisionmaker for limitations purposes. But simply because Columbia had multiple levels of review, including appellate review at the President's level, and Monroe had succeeded previously in securing a reversal of the Provost's decision, was not sufficient to show any deliberate, wrongful action on Columbia's part. *Id.*, at *5–6.

The court went on to find that Monroe's section 1981 claim (Count III) was likewise untimely. That claim is subject to a four-year statute of limitations. Monroe was denied tenure by the Provost in March 2013, but he did not file his federal complaint until August 2017, more than four years later. *Id.*, at *6.

The court subsequently entered summary judgment in Columbia's favor as to Counts IV through VI. *Monroe v. Columbia Coll. Chicago*, 2020 WL 1503593 (N.D. Ill. Mar. 30, 2020). (The judgment as to Count IV, asserting the Title VI claim for race-based exclusion from participation in a federally-funded program, is addressed in our separate opinion.) Count V is a claim for intentional interference with contract under Illinois law. The gist of the claim is that Sheridan, by submitting factually false reports as to Monroe's performance, effectively caused Columbia to breach its contract with Monroe by denying him tenure notwithstanding the fact that he met the College's criteria for tenured employment and was "entitled" to tenure. R. 50 at 24. Judge Durkin assumed that the published tenure criteria constituted a contract, but he emphasized that Columbia, as opposed to Sheridan, had done nothing to breach that contract. *Id.*, at *5. Finally, Count VI asserts a claim for tortious interference with a prospective economic advantage. Monroe alleges that Sheridan, by misrepresenting his performance, effectively doomed his tenure application. But Judge Durkin noted that the first element of such a claim is a reasonable expectation of entering into a business relationship, which in this case would be a grant of tenure and a renewal of his teaching contract. Yet Columbia's tenure criteria make clear that there is no right to tenure and that tenure is granted only to the most highly-qualified individuals. Monroe "d[id] not cite a single case" in which a candidate could say that he had a reasonable expectation of being granted tenure. Moreover, from his first year onward, there were criticisms of Monroe's performance. So while Monroe may have hoped that he would be granted

tenure, he could not reasonably claim to have expected it. *Id.*, at *6.

II.

A. *Timeliness of Counts I and II: discriminatory acts in Monroe's terminal year.*

The Title VII claims of race discrimination and retaliation set forth in Counts I and II of Monroe's complaint are subject in practice to a 300-day limitations period in Illinois, in view of the EEOC's work-sharing arrangement with the Illinois Department of Human Rights. *See* 42 U.S.C. § 2000e-5(e)(1); *Mirza v. Neiman Marcus Grp., Inc.*, 649 F. Supp. 2d 837, 849–52 (N.D. Ill. 2009). As noted, Monroe did not file his Title VII charge with the EEOC until more than 300 days after the Provost's March 2013 decision to deny him tenure.[1]

Although the denial of tenure takes center stage in Monroe's complaint, he alleges that the College took other, related adverse employment actions against him through the end of his terminal year in May 2014 and contends that because these actions took place within the limitations period, his complaint is timely. These include such things as not allowing him to teach advanced courses, denying him a position as a project coordinator, preventing him from interacting with

[1] Monroe's prior filing with the Chicago Commission on Human Relations is of no benefit to him in this respect because the Commission has no work-sharing relationship with the EEOC. *See* 29 C.F.R. § 1601.74(a); *Crawford v. Bank of Am.*, 986 F. Supp. 506, 509 (N.D. Ill. 1997); *Osborn v. E.J. Brach, Inc.*, 864 F. Supp 56, 58 n.4 (N.D. Ill. 1994).

community groups, denigrating his work to others, and disallowing his participation in inter-disciplinary teaching. In Monroe's view, such acts, taken together, could be thought to have dimmed his future career employment prospects and denied him additional income. *See Herrnreiter v. Chicago Hous. Auth.*, 315 F.3d 742, 744 (7th Cir. 2002).

We agree with the district court that these additional allegations are insufficient to establish a distinct, material adverse action that might render Counts I and II timely. Among the various actions alleged, the one that would have had the most obvious potential to affect Monroe's employment prospects elsewhere was denying him the opportunity to teach more advanced courses. But Monroe has alleged in his amended complaint that he *did* in fact teach advanced courses in his terminal year. R. 50 ¶ 50. As for the remaining actions, Monroe has not made a plausible case for why these were significant enough to result in concrete harm to his career prospects and constitute an adverse employment action on their own.

B. *Timeliness of Counts I and II: hostile work environment.*

Monroe alternatively argues that he was subject to a hostile working environment which continued through his terminal year. Assuming that there were underlying acts of harassment that took place in Monroe's final year at Columbia, then one or both of his Title VII claims might be timely to the extent they seek relief for a hostile environment. *See Nat'l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 118, 125 S. Ct. 2061, 2075 (2002). However, the harassment

underlying a hostile environment claim must qualify as severe or pervasive in order to be actionable. *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21–22, 114 S. Ct. 367, 370–71 (1993), *abrogated on other grounds*, *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742, 118 S. Ct. 2257 (1998). Among the pertinent negative actions briefly referenced in the complaint (e.g., Sheridan accusing Monroe of "playing the race card" and engaging in "hyper-surveillance" of his activities) and flagged in the briefing, none qualify as severe, and neither do the allegations plausibly describe a workplace that was permeated with offensive and demeaning conduct over a significant period of time. *See id.* at 21, 114 S. Ct. at 370; *Cerros v. Steel Techs., Inc.*, 288 F.3d 1040, 1047 (7th Cir. 2002).

C. *Timeliness of Counts I, II, III, and VI: equitable estoppel.*

Monroe also asserts that equitable estoppel ought to preclude Columbia from arguing that his Title VII, section 1981, and his Title VI claims are untimely. He makes two points in this regard. First, citing a Third Circuit case, *Oshiver v. Levin, Fishbein, Sedran & Berman*, 38 F.3d 1380, 1390 (3d Cir. 1994), *overruled in part on other grounds by Rotkiske v. Klemm*, 890 F.3d 422, 428 (3d Cir. 2018) (en banc), *j. aff'd*, 140 S. Ct. 355 (2019), Monroe argues that mistakenly filing a complaint in the wrong forum can be a basis for equitable relief. *Oshiver*'s conception of when equitable relief is appropriate is broader than the one this court has adopted, *see Thelen v. Marc's Big Boy Corp.*, 64 F.3d 264, 267–68 (7th Cir. 1995), but Monroe appears to rely on *Oshiver*'s discussion of a plaintiff's diligence,

and the importance of that diligence in awarding equitable relief, for the notion that his own timely pursuit of relief, albeit initially in the wrong forum (the Chicago Commission on Human Relations), paves the way for him to invoke the doctrine of equitable estoppel and to argue that Columbia's wrongdoing should support the application of that doctrine and excuse the tardy filing of his EEOC charge. Reply Br. at 6–7. Monroe thus goes on to argue that Columbia made statements to the EEOC indicating, contrary to its argument now, that the Provost's March 2013 tenure decision was merely a *recommendation*, and that it was President Kim who made the final tenure decision in August 2013. *See* R. 55-1 at 6, 8. These statements purportedly misled Monroe into believing that the statute of limitations on his discrimination claims did not begin to run until August 2013, when Kim affirmed the Provost's decision. *Compare Williamson v. Indiana Univ.*, 345 F.3d 459, 463 (7th Cir. 2003) (rejecting plaintiff's invocation of equitable estoppel in the absence of evidence that either EEOC or defendant took active steps to prevent plaintiff from timely filing claim), *with Cada v. Baxter Healthcare Corp.*, 920 F.2d 446, 450–51 (7th Cir. 1990) (indicating equitable estoppel would be appropriate when defendant has promised not to plead statute of limitations).

Monroe's equitable estoppel theory goes nowhere. First, with respect to the Title VII claims set forth in Counts I and II, Columbia made these statements to the EEOC in April 2014, *after* Monroe had already filed his EEOC charge late, so these statements cannot be said to have "prevented" Monroe from timely pursuing

his EEOC charge. Equitable estoppel thus cannot rescue Counts I and II.

Second, as to Counts III (section 1981) and IV (Title VI) Monroe contends that had he realized it was the Provost's decision that started the limitations clock, he would have more timely filed his federal complaint; instead, Columbia's statements to the EEOC led him to believe the clock did not begin to run until August 2013. He adds that neither Columbia nor the EEOC raised any questions as to the timeliness of his claims during the years his charge was pending with the agency. But, as Judge Durkin emphasized, equitable estoppel requires a deliberate strategy on the part of the defendant. We see nothing in the record that supports an inference that Columbia was deliberately trying to deceive or lull Monroe on this point so that he would fail to timely pursue legal relief on his claims, or even that the College clearly understood that its actions would cause Monroe to delay taking action in pursuit of his claims. *See Hedrich v. Bd. of Regents of Univ. of Wis. Sys.*, 274 F.3d 1174, 1182 (7th Cir. 2001). It is not unusual for lawyers to overlook points or to advance new arguments as a case proceeds, after all.

D. *Count V: intentional interference with contract.*

Monroe's state-law claim for interference with contract against Sheridan posits that Sheridan caused Columbia to breach its contractual agreement to base its tenure decision on its published criteria for tenure when it relied on Sheridan's evaluations of his performance rather than those criteria, without recognizing that Sheridan had placed limitations on Monroe's ability to meet these criteria and had

misrepresented Monroe's performance as a teacher. But, as the district court reasoned, there is no evidence that Columbia abandoned its stated criteria for tenure. Rather, it was influenced by Sheridan's reports (as one might expect, given his position as Monroe's department chairperson) in applying those criteria. Whatever wrongdoing Monroe attributes to Sheridan, the result was not a breach of contract by Columbia.

E. *Count VI: tortious interference with prospective economic advantage.*

Count VI alleges that Sheridan, by submitting his unfounded negative evaluation of Monroe, tortiously interfered with Monroe's tenure application (and, in turn, his future employment prospects). This claim arguably is a better fit for what Monroe is alleging, *i.e.*, that Monroe was qualified and expected to be given tenure but Sheridan deliberately interfered with the process and sank his tenure application. But this claim, as the district court noted, requires as its first element a reasonable expectation of entering into a business relationship. *Foster v. Principal Life Ins. Co.*, 806 F.3d 967, 971 (7th Cir. 2015) (quoting *Voyles v. Sandia Mortg. Co.*, 751 N.E.2d 1126, 1133 (Ill. 2001)). Tenure is a highly discretionary decision and is frequently denied to any number of competent candidates whom a university deems not to meet its criteria. Nothing in Columbia's published tenure criteria or in its dealings with Monroe promised or guaranteed him tenure, whatever his unilateral hopes may have been. Moreover, although he received the favorable (albeit divided) vote of the faculty members in his department, and there appears to have been a consensus that his

teaching and teaching-related performance had substantially improved over the course of his time at Columbia, there were certain persistent criticisms of Monroe in that respect throughout his time there. So it is just not plausible to say that he had a reasonable expectation of being granted tenure. *See Goswami v. DePaul Univ.*, 2014 WL 125600, at *5–7 (N.D. Ill. Jan. 14, 2014) (Illinois law) (noting, *inter alia*, that glowing reviews did not give rise to a reasonable expectation of tenure and contract renewal); *Montes v. Cicero Pub. Sch. Dist. No. 99*, 141 F. Supp. 3d 885, 900–01 (N.D. Ill. 2015) (Illinois law) (non-renewal of year-to-year teaching contract). This claim fails also.

III.

For all of the foregoing reasons, we AFFIRM the district court's judgment as to Counts I through III and V and VI of Monroe's amended complaint.

APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 17-cv-5837

Judge Thomas M. Durkin

[Filed: August 27, 2018]

VAUN MONROE,	)
	)
Plaintiff,	)
	)
v.	)
	)
COLUMBIA COLLEGE OF CHICAGO & BRUCE SHERIDAN,	)
	)
Defendants.	)
	)

MEMORANDUM OPINION AND ORDER

Plaintiff Vaun Monroe brought this action against Defendants Columbia College of Chicago and Bruce Sheridan asserting claims of race discrimination and retaliation in violation of Title VII (Counts I and II), 42 U.S.C. § 1981 (Count III), and Title VI (Count IV); as well as intentional interference with contract and prospective economic advantage (Counts V and VI). The Court previously granted a motion to dismiss by

Defendants, holding that Counts I through III were time-barred. R. 43. Monroe subsequently filed an amended complaint. R. 50. Defendants have moved to dismiss Counts I through III of the Amended Complaint, arguing Monroe still has not pleaded that his claims were timely filed. R. 52. For the following reasons, Defendants' motion is granted.

LEGAL STANDARD

A Rule 12(b)(6) motion challenges the "sufficiency of the complaint." *Berger v. Nat. Collegiate Athletic Assoc.*, 843 F.3d 285, 289 (7th Cir. 2016). A complaint must provide "a short and plain statement of the claim showing that the pleader is entitled to relief," Fed. R. Civ. P. 8(a)(2), sufficient to provide defendant with "fair notice" of the claim and the basis for it. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). This standard "demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). While "detailed factual allegations" are not required, "labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Twombly*, 550 U.S. at 555. The complaint must "contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570). "'A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.'" *Boucher v. Fin. Sys. of Green Bay, Inc.*, 880 F.3d 362, 366 (7th Cir. 2018) (quoting *Iqbal*, 556 U.S. at 678). In applying this standard, the Court accepts all

well-pleaded facts as true and draws all reasonable inferences in favor of the non-moving party. *Tobey v. Chibucos*, 890 F.3d 634, 646 (7th Cir. 2018).

BACKGROUND

Monroe was formerly a tenure-track assistant professor at Columbia in the Film and Video Department. He alleges that he was the first and only black male hired as a tenure-track professor in that department. R. 50 ¶ 2. Monroe alleges a history of discrimination beginning from his first year at Columbia. He notes that his concerns about bias in his students' evaluations were ignored, and he was passed up for promotions over white, less qualified individuals.

In late 2010, Sheridan, Monroe's department chair, recommended Monroe's termination. *Id.* ¶ 40. Monroe filed a grievance with the Elected Representatives of the College ("ERC") and Sheridan's recommendation was eventually reversed by Columbia's then president, President Carter. *Id.* ¶¶ 44-49. In reversing the proposed dismissal, President Carter wrote: "My decision regarding your faculty status at Columbia College Chicago is that your tenure-track appointment be continued for the 2011-2012 academic year." *Id.* ¶ 49. The grievance allegedly resulted in retaliation by Sheridan—Sheridan removed Monroe from teaching advanced and specialty courses to teaching only foundational courses. *Id.* ¶ 50. Monroe resumed teaching advanced courses at least in his final year of employment with Columbia. *Id.*

Sheridan also "engaged in hyper-surveillance" of Monroe's activities and threatened Monroe with

"investigations" of minor infractions that never actually materialized. *Id.* ¶ 51. Monroe alleges this behavior continued until the end of his employment. *Id.* ¶¶ 50, 51.

Eventually, when Monroe was considered for tenure, his department "voted overwhelmingly in favor of Monroe's tenure," but Sheridan issued a negative recommendation. *Id.* ¶ 53. On March 18, 2013, the Provost denied Monroe tenure because he "did not show strong evidence of excellence in teaching or professional distinction in creative endeavors or scholarship." *Id.* ¶ 54. Monroe filed a grievance with the ERC and also filed a complaint of racial discrimination, harassment, and retaliation against Sheridan with Columbia's Office of Human Resources. *Id.* ¶ 55-56. Both complaints were rejected. *Id.* Monroe then submitted materials for review of the decision to Columbia's incoming president, President Kim. President Kim ruled against Monroe on August 12, 2013. *Id.* ¶ 59. Monroe alleges that based on his previous experiences with Columbia, it is the president's decision to retain or dismiss a professor, and as a result, Monroe believed President Kim made the final decision on tenure, and that earlier decisions by the Provost were merely recommendations. *Id.* ¶ 60.

Monroe contested President Kim's decision. He first wrote to the American Association of University Professors. *Id.* ¶ 61. The Association wrote to President Kim, stating that the decision to deny Monroe tenure after he had made a claim for discrimination was grounds for a new hearing and that Columbia was in violation of best academic practices. *Id.* President Kim

responded that Columbia would treat the statement as a "suggestion" and would consider it for future cases. *Id*. On September 12, 2013, about one month after President Kim's decision to deny Monroe tenure, Monroe filed a complaint of discrimination with the City of Chicago Commission on Human Relations, alleging racial discrimination and workplace retaliation. *Id*. ¶ 62. Monroe next filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") on February 7, 2014. *See* R. 50-1. The EEOC issued an inconclusive determination on May 12, 2017. *Id*. The EEOC did not indicate the Charge was untimely filed. *Id*. Monroe filed this action on August 10, 2017.

DISCUSSION

On April 10, 2018, the Court dismissed Counts I through III of Monroe's complaint as time-barred. R. 43. The Court assumes general familiarity with that decision. In that opinion, the Court held that the Provost's decision on March 18, 2013 denying Monroe tenure, not President Kim's decision, was the operative adverse action for determining the statute of limitations period. The Court based that ruling on Seventh Circuit precedent, Columbia's policies on tenure, and the letters referenced in the complaint in which President Kim stated his decision was solely appellate. R. 43 at 5-9. Because the Court determined the operative adverse action date was March 18, 2013, Monroe's February 7, 2014 complaint with the EEOC was filed 26 days beyond the 300-day limitations period under 42 U.S.C. § 2000e–5(e)(1). The Court also found that Monroe had not plausibly alleged that

discrimination against him continued through the end of his employment in May 2014 after he had filed his EEOC complaint, and Monroe had not demonstrated that equitable principles should toll the limitations period. For similar reasons, the Court found Monroe had failed to timely bring his 42 U.S.C. § 1981 claim, which has a four-year statute of limitations period.

Monroe now argues his Title VII and Section 1981 claims are timely because the discrimination against him continued through the termination of his employment and because Defendants should be equitably estopped from arguing the statute of limitations applies.

I. Title VII Claim (Counts I and II)

A. Adverse Employment Action

Monroe first argues that the amended complaint sufficiently alleges that he suffered specific acts of discrimination through the date of his termination in May 2014. To be actionable, a discriminatory act must constitute an "adverse employment action." *Stalter v. Wal–Mart Stores, Inc.,* 195 F.3d 285, 289 (7th Cir. 1999). An adverse employment action is one that results in a "significant change in employment status." *Chaudhry v. Nucor Steel-Ind.*, 546 F.3d 832, 838 (7th Cir. 2008). "[N]ot everything that makes an employee unhappy is an actionable adverse action. Otherwise, minor and even trivial employment actions that 'an irritable, chip-on-the-shoulder employee did not like would form the basis of a discrimination suit.'" *Smart v. Ball State Univ.*, 89 F.3d 437, 441 (7th Cir. 1996). Adverse employment actions typically fall into one of

three categories: "(1) termination or reduction in compensation, fringe benefits, or other financial terms of employment; (2) transfers or changes in job duties that cause an employee's skills to atrophy and reduce future career prospects; and (3) unbearable changes in job conditions, such as a hostile work environment or conditions amounting to constructive discharge." *Barton v. Zimmer, Inc.*, 662 F.3d 448, 454-454 (7th Cir. 2011).

Here, Monroe alleges he was subjected to different terms and conditions of employment because of his race and in retaliation for his complaints against Sheridan. He argues that this conduct falls into the second category of adverse employment actions—changes in job duties that cause an employee's skills to atrophy or reduce future career prospects. R. 55 at 5. Most of Monroe's allegations occurred well outside the 300-day limitations period required to bring his Title VII claim and thus cannot be included as timely discrete acts. *See* R. 50 ¶¶ 50, 51.

Monroe makes conclusory allegations that some of the conduct continued through the end of his employment—his amended allegations extend the relevant dates of the conduct through May 2014 ("post-tenure decision conduct"). Specifically, he alleges that he was forced to teach only introductory classes, "including during his 'terminal year' at Columbia in the fall 2013 and continuing in the Spring semester through May 2014." *Id.* ¶ 50. Monroe further alleges that Sheridan's "hyper-surveillance" of Monroe's activities continued through May 2014. *Id.* ¶ 51. Neither of these allegations plausibly allege an adverse

employment action. With respect to both allegations, Monroe's own complaint shows they had no effect on his tenure decision. As to his teaching introductory courses, Monroe alleges that in his "terminal year" he taught two advanced courses, but these courses were too late to benefit his tenure application. *Id*. ¶ 50. Likewise, he alleges the hyper-surveillance was reduced during his terminal year and that Sheridan's threats of investigations never actually materialized. *Id*. ¶ 51. Nor does Monroe allege that his skills atrophied or that his future career prospects were reduced because of that later conduct. *Lucas v. Chi. Transit Auth.*, 367 F.3d 714, 731 (7th Cir. 2004) ("There must be some tangible job consequence accompanying the reprimand to rise to the level of a material adverse employment action.").

In any event, the conduct he complains of does not constitute adverse employment actions. Monroe argues the changes in his job duties (restriction to teaching introductory classes, failing to allow peer reviews of his classes, denying interactions with community groups, denigrating his work to others) is sufficient to meet the adverse employment action standard. But courts have held that similar conduct is not actionable, particularly without allegations that the change had any job consequences. *See Peters v. Wal-Mart*, 876 F. Supp. 2d 1025, 1035 (N.D. Ind. 2012), *aff'd sub nom. Peters v. Wal-Mart Stores E., LP*, 512 F. App'x 622 (7th Cir. 2013) (allegations that defendants would not allow plaintiff to modify her schedule, reprimanded her rudely, failed to train her on certain equipment, required her to take a drug test, kept plaintiff under "close surveillance," gave her a written coaching, and

gave her difficult work assignments were insufficient to establish an adverse employment action as a matter of law); *Lapka v. Chertoff,* 517 F.3d 974, 986 (7th Cir.2008) (concluding that more difficult or time-consuming work assignments and decreased performance ratings were not materially adverse employment actions absent tangible job consequences); *compare Alexander v. Casino Queen*, 739 F.3d 972, 980 (7th Cir. 2014) (allegations that plaintiffs were moved from high-tipping areas on the casino floor and disciplined more harshly than their white peers causing them to lose hours or days of tips were sufficient because tips comprised 40% to 73% of the plaintiffs' compensation and as a result, the reduction represented a "significant" change in benefits); *Lewis v. City of Chicago*, 496 F.3d 645, 653 (7th Cir. 2007) (denial of training experience through denial of overtime could constitute adverse employment action because plaintiff lost overtime pay and because it denied her the opportunity to police large public gatherings to advance her career and receive future overtime).[1] In its previous opinion, the Court explained that Monroe plausibly alleged an adverse employment action based on allegations that he was forced to teach

[1] Monroe criticizes Defendants for using cases decided on summary judgment in support of their argument, but Monroe likewise uses summary judgment decisions in support of his argument. *See* R. 55 at 6. On a motion to dismiss, the Court accepts all well-pleaded facts as true and draws all reasonable inferences in favor of the non-moving party. *Tobey v. Chibucos*, 890 F.3d 634, 646 (7th Cir. 2018). The courts in the cases on which both parties and the Court rely, found that the plaintiffs could not show an adverse employment action as a matter of law and therefore are properly considered on a motion to dismiss.

classes outside his specialty, which plausibly could have constituted a reduction in benefits, a reduction in future career prospects, or created an unbearable change in job conditions. R. 43 at 14. But in his Amended Complaint, Monroe pleads himself out of plausibility by admitting he did teach advanced courses, and that teaching some introductory courses in his terminal year did *not* affect his tenure prospects. R. 50 ¶ 50. Without allegations that the employment action had tangible job consequences, Monroe does not plausibly allege an actionable adverse employment action.

Here, the only detriment Monroe alleges is the denial of tenure. But the actions that led to that denial necessarily occurred before he was denied tenure. Monroe fails to allege any post-tenure decision conduct that had an adverse effect on his career prospects. Accordingly, Monroe fails to plead any discrete adverse actions within the limitations period.

B. Hostile Work Environment

Monroe's Title VII claim can survive if he alleges a hostile work environment with at least one act falling within the 300-day period. Monroe fails to do so. Hostile work environment claims involve "repeated conduct" that "may not be actionable on its own." *Morgan*, 536 U.S. at 115. Rather, "[s]uch claims are based on the cumulative effect of individual acts." *Id*. In contrast to discrete acts of discrimination, it does not matter that "some of the component acts of the hostile work environment fall outside the statutory time period. Provided that an act contributing to the claim occurs within the filing period, the entire time

period of the hostile environment may be considered by a court for the purposes of determining liability." *Id*. at 117; *see also Lucas*, 367 F.3d at 724.

A hostile environment is one that is "permeated with discriminatory intimidation, ridicule and insult." *Cooper-Schut v. Visteon Auto. Sys.*, 361 F.3d 421, 426 (7th Cir. 2004). To state a Title VII hostile work environment claim, Monroe must allege (1) he was subject to unwelcome harassment; (2) the harassment was based on his race; (3) the harassment was severe or pervasive so as to alter the conditions of employment and create a hostile or abusive working environment; and (4) there is basis for employer liability. *Huri v. Office of the Chief Judge of the Circuit Court of Cook Cty*., 804 F.3d 826, 833-34 (7th Cir. 2015). "To rise to the level of a hostile work environment, conduct must be sufficiently severe or persuasive to alter the conditions of employment such that it creates an *abusive* relationship." *Id*. (emphasis in original). In determining whether a workplace is objectively hostile, courts consider the totality of the circumstances, including: "the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance." *Alamo v. Bliss*, 864 F.3d 541, 549-50 (7th Cir. 2017)

Monroe's allegations do not plausibly support an abusive work environment. Monroe alleges he was denied the opportunity to teach advanced courses, serve in coordinator positions, hold administrative responsibilities, interact with community groups, and

to have his teaching assessed by peer reviews. R. 50 ¶ 67. Monroe also alleges he was subject to hyper-surveillance and threatened with "investigations" of minor infractions, but that those investigations never actually materialized. *Id*. Although these incidents may have understandably frustrated Monroe, they do not constitute harassment so severe or pervasive to alter the conditions of employment and create an *abusive* working environment. *Compare Huri*, 804 F.3d at 834 (allegations of screaming, prayer circles, social shunning, implicit criticism of non-Christians, and uniquely bad treatment plausibly alleged a hostile work environment); *Alamo*, 864 F.3d at 550-552 (allegations that coworkers used offensive slurs, stole plaintiff's food, and physically threatened him over a two-year period, as well as allegations that he routinely complained to his supervisors of mistreatment and that those supervisors did nothing to curb the ongoing harassment were sufficient to survive motion to dismiss). Further, Monroe does not allege that the conduct interfered with his work performance. *See Alexander*, 739 F.3d at 982 (work environment that "was not physically threatening, nor was it openly racist, nor did it unreasonably interfere with plaintiffs' performance" was not a hostile work environment). Instead, Monroe's allegations indicate his performance was not affected—he alleges Sheridan selectively quoted negative student evaluations while ignoring "overall statistics and peer reviews that were positive," R. 50 ¶ 51, and falsely denigrated Monroe to professional colleagues, *id*. ¶ 52. Monroe has not plausibly alleged a hostile work environment that interfered with his work performance. *See Griffin v. Potter,* 356 F.3d 824, 830 (7th Cir. 2004) (noting that a

supervisor's alleged harassing conduct did not interfere with plaintiff's ability to do her job and therefore weighed against a finding of a hostile work environment).

C. Equitable Estoppel

Monroe next argues that the Court should apply equitable estoppel to allow his claims to proceed because he timely asserted his rights, but mistakenly in the wrong forum. R. 55 at 10. Monroe alleges he filed a complaint of discrimination with the City of Chicago Commission on Human Relations alleging racial discrimination and workplace retaliation within the 300-day limitations period. R. 50 ¶ 62. Monroe concedes that his filing of that complaint is not sufficient to meet the limitations period because the Commission is not a federally certified agency. *See* R. 55 at 11. Nonetheless, he contends that Columbia is equitably estopped from arguing that his subsequent filing with the EEOC was filed too late.

Simply mistaking the proper forum is not sufficient to warrant equitable estoppel. As a case Monroe cites makes clear, extending the statute of limitations is appropriate where the defendant "by deceptive conduct, caused the plaintiff's untimeliness." *Oshiver v. Levin, Fishbein, Sedran & Berman*, 38 F.3d 1380, 1390 (3d Cir. 1994).[2] Indeed, equitable estoppel requires

[2] The other case Monroe cites for his argument is not on point. *See Burnett v. New York Cent. R. Co.,* 380 U.S. 424, 429-34 (1965) (respondent could not rely on limitations statute because it knew that the petitioner was actively pursuing his rights in the state court and becuase to not toll the statute would create a "procedural

allegations that Columbia "took active steps to prevent [Monroe] from bringing [his] charge within the allotted time." *See Williamson v. Indiana Univ.,* 345 F.3d 459, 463 (7th Cir. 2003); *Hentosh v. Herman M. Finch Univ. of Health Scis./The Chicago Med. Sch.*, 167 F.3d 1170, 1174 (7th Cir. 1999). Monroe makes no allegations that Columbia took active steps to cause him to bring the case before the Commission on Human Rights rather than the EEOC.[3]

Monroe instead argues Columbia lulled him into believing that the president was the final decision-maker as to tenure. As the Court explained in its first opinion, allegations of equitable estoppel require "a deliberate design by the employer or . . . actions that the employer should unmistakably have understood would cause the employee to delay filing his charge." *Hedrich v. Bd. of Regents of Univ. of Wisconsin Sys.*, 274 F.3d 1174, 1182 (7th Cir. 2001). Monroe makes no such allegations. Instead, the "lulling" Monroe alleges occurred years before the tenure decision: Monroe

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anomaly" regarding improper venue not intended by the Federal Employers' Liability Act).

[3] To the extent Monroe argues equitable tolling is more appropriate, that argument fails because there are no allegations Monroe "discovered" his injury at a later date. *See Cada v. Baxter Healthcare Corp.*, 920 F.2d 446, 451 (7th Cir. 1990) (Equitable tolling "permits a plaintiff to avoid the bar of the statute of limitations if despite all due diligence he is unable to obtain vital information bearing on the existence of his claim."). Here, Monroe was aware of the discrimination claim at the time of the Provost's tenure denial. He alleges he filed a complaint of racial discrimination with the Office of Human Resources soon after he was denied tenure. R. 50 ¶ 56.

alleges President Carter reversed a recommendation to terminate his employment for the *2011-2012 academic year*. R. 50 ¶ 49. If Monroe is arguing that this decision caused him to believe President Kim's denial was the final decision, this at most indicates confusion by Monroe as to Columbia's procedures on tenure—not a "deliberate design" by Columbia to delay Monroe filing his Charge of Discrimination three years later. Regardless, President Kim's letter to Monroe in August 2013 clarified those procedures. *See* R. 43 at 7 (noting that President Kim's letter on August 12, 2013 stated: "my office received your written *appeal* in regards to the denial of tenure in your case," and after describing the procedures Monroe had already attempted, stating "[k]nowing the importance of the tenure decision for a faculty member, I have studied your entire case and *appeal* thoroughly and have considered at length each of the ERC's three findings. In the end, . . . *I therefore affirm that denial of tenure in your case will stand*.") (emphasis added in original opinion).[4]

Further, Seventh Circuit case law forecloses any argument by Monroe that having many channels of internal review constitutes active steps by an employer warranting equitable estoppel. *See Lever v. Northwestern University*, 979 F.2d 552, 556 (7th Cir. 1992) (an internal review process was not a "snare[ ] for the unwary" simply because the defendant university offered many channels of internal review through which a professor could attempt to persuade

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[4] Monroe attached President Kim's letter to his response to Defendants' initial motion to dismiss. *See* R. 21-5. The Court relied on that letter in its opinion.

school officials to change their employment decisions); *see also Lucas*, 367 F.3d at 722 ("Our decisions clearly demonstrate that merely providing internal review, as in the present situation, is not the type of active step that warrants the application of equitable estoppel.").

In sum, Monroe fails to allege any deliberate action by Columbia warranting equitable estoppel. As explained in the Court's previous order, it is clear from Columbia's policies and the letter President Kim sent to Monroe that his decision on tenure was merely one of appellate review. R. 43 at 7-8. Monroe does not plausibly allege that he was deceived into his untimely filing. Monroe's Title VII claims are therefore dismissed with prejudice.[5]

II. 42 U.S.C. § 1981 (Count III)

For the same reasons as explained above and in the Court's previous order (R. 43 at 17-18), Monroe's Section 1981 claim is also untimely. Lawsuits alleging violations of Section 1981 must be filed within four years of the alleged violation. *See* 28 U.S.C. §1658(a). Monroe was denied tenure on March 18, 2013. He filed this action on August 10, 2017. His claim is thus barred by the four-year statute. Monroe's Section 1981 claim is dismissed with prejudice.

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[5] Despite an opportunity to amend his claim, Monroe has failed to plead a plausible claim for relief. A court need not grant leave to amend if it is clear that amendment is futile. *See Runnion v. Girl Scouts of Greater Chicago & Nw. Ind.,* 768 F.3d 510, 520 (7th Cir. 2015).

CONCLUSION

For the foregoing reasons, Defendants' motion to dismiss Counts I through III, R. 52, is granted.

Dated: August 27, 2018

ENTERED:

/s/ Thomas M Durkin
Honorable Thomas M. Durkin
United States District Judge

APPENDIX D

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 17 C 5837

Judge Thomas M. Durkin

[Filed: March 30, 2020]

VAUN MONROE,	)
	)
Plaintiff,	)
	)
v.	)
	)
COLUMBIA COLLEGE CHICAGO and BRUCE SHERIDAN,	)
	)
Defendants.	)

MEMORANDUM OPINION AND ORDER

Plaintiff Vaun Monroe brought this action against Defendants Columbia College Chicago and Bruce Sheridan asserting claims of race discrimination and retaliation in violation of Title VII (Counts I and II), 42 U.S.C. § 1981 (Count III), and Title VI (Count IV); as well as intentional interference with contract and prospective economic advantage (Counts V and VI). The Court previously dismissed Counts I-III as time-

barred. *See* R. 62. Now before the Court is Defendants' motion for summary judgment on Counts IV-VI [R. 73]. Defendants' motion is granted.

Legal Standard

Summary judgment is appropriate "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986). The Court considers the entire evidentiary record and must view all of the evidence and draw all reasonable inferences from that evidence in the light most favorable to the nonmovant. *Horton v. Pobjecky*, 883 F.3d 941, 948 (7th Cir. 2018). To defeat summary judgment, a nonmovant must produce more than a "mere scintilla of evidence" and come forward with "specific facts showing that there is a genuine issue for trial." *Johnson v. Advocate Health and Hosps. Corp.*, 892 F.3d 887, 894, 896 (7th Cir. 2018). Ultimately, summary judgment is warranted only if a reasonable jury could not return a verdict for the nonmovant. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

Background

Plaintiff Vaun Monroe began working at Columbia College Chicago in the fall of 2007. R. 75 ¶ 3. He was the first African-American male hired as a tenure-track professor in Columbia's Film & Video Department. R. 92 ¶ 2.

Columbia's tenure process involves several steps.[1] First, external reviewers review the candidate's curriculum vitae and his other scholarly and creative endeavors. They submit their evaluations to the candidate's Department Chair, who reviews the candidate's tenure dossier and prepares a Department Chair Report. Other department faculty independently review the dossier and prepare a Reviewing Faculty Report. The candidate's dossier and the Department Chair and Reviewing Faculty Reports are sent to the School Dean, who in turn writes a School Dean Report. At that point, the candidate may submit comments to the All College Tenure Committee, which generates yet another report and delivers it to Columbia's Provost/Vice President for Academic Affairs. The Provost/Vice President then makes the final tenure decision. *See* R. 75 Ex. B at 15-18.

Monroe received several negative student course evaluations during his first year at Columbia. Monroe met with Department Chair Bruce Sheridan to discuss the evaluations and pointed out that student

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[1] Monroe "denies" that Columbia's Statement of Policy on Academic Freedom, Faculty Status, Tenure, and Due Process attached to the Defendants' summary judgment motion governs his tenure process because the handbook was amended on May 9, 2013, which was subsequent to his review. But the handbook also states it was amended in 2002, 2003, 2009, 2011, and 2012. And Monroe does not point to a single provision that was amended in 2013. Tellingly, in opposing the Defendants' motion to dismiss, Monroe cited the same handbook as containing the dispositive language. *See* R. 21 at 7. In the absence of any evidence that the handbook was amended in 2013 in a way that materially affects this dispute, the Court refers to it as governing here.

evaluations may result in bias against faculty of color. Monroe claims that Sheridan then accused him of "playing the race card" and not "assuming responsibility for [his] classroom." R. 92 ¶ 9. During Monroe's second year, a student created a racially-charged website about him, which Monroe contends department personnel told him to ignore. R. 87 Ex. E ¶ 14.

By Monroe's third year, Columbia instituted a third-year review for tenure-track faculty. *Id.* ¶ 17. The review was intended to provide the faculty member with an assessment of his performance, but also to result in a recommendation of "continuation" or "termination" based on the results. R. 50 ¶ 33. Sheridan attended Monroe's faculty review despite conversations about whether a department chair's presence at the meeting was appropriate. R. 92 ¶ 15. During the meeting, Sheridan again raised the issue of student evaluations and Monroe repeated his concern about potential bias. *Id.* at ¶ 16. The faculty members then voted on the three areas measured for tenure: Teaching and Curriculum Development; Creative or Scholarly Work; and College and Community Service. Monroe received zero yes votes in Teaching and Curriculum Development. R. 87 ¶ 15. He received 16 yes votes and one no vote in Creative or Scholarly Work, and 9 yes votes and 8 no votes in College and Community Service. R. 75 Ex. D at 6. Sheridan and School of Media Arts Dean Doreen Bartoni subsequently prepared the Department Chair and School Dean Reports, both of which raised concerns about Monroe's teaching and teaching-related activities. *See id.* Ex. E at 2-3; Ex. F. After reviewing

Monroe's three-year tenure dossier and the Reviewing Faculty, Department Chair, and School Dean Reports, Vice President for Academic Affairs Louise Love declined to renew Monroe's appointment for the following year. *Id.* Ex. G at 1.

When Monroe learned of Love's decision, he filed a grievance with Columbia's Elected Representative Committee. R. 87 Ex. E ¶ 23. The Committee determined that the Film & Video Department did not follow its stated procedures for evaluating Monroe's teaching, specifically noting the prejudicial effect of not having tenured faculty perform classroom observations. R. 92 ¶ 19. Columbia President Warrick Carter subsequently reversed the decision not to renew Monroe's contract for 2011-2012. R. 87 Ex. J.

Following Carter's reversal, Monroe met with Sheridan to clear the air. During the meeting, Sheridan accused Monroe of tardy submissions of administrative materials. R. 92 ¶ 20(a). Thereafter, Sheridan only assigned Monroe to teach introductory courses for the rest of his employment at Columbia. *Id.* ¶ 22; R. 87 Ex. E at 16. While Monroe had received his best evaluations in graduate-level directing courses, a white male with a bachelor's degree in marketing was hired as an adjunct professor in 2011 and taught Directing 1 every semester through the fall of 2014. R. 92 ¶ 22. Meanwhile, Sheridan chose white non-tenure track senior lecturers over Monroe to fill several screenwriting and program coordinator positions. *Id.* ¶ 12. Monroe contends that all of his white peers held coordinator positions in the department. *Id.* ¶ 11.

Monroe's official review for tenure appointment began in 2012. The reviewing department faculty met without Sheridan present and approved Monroe's tenure application by a vote of 9-5. *Id.* ¶¶ 23-24. While their report cited continuing evidence of Monroe failing to provide timely feedback to students and respond to student communication, it stated that Monroe had "significantly improved in the area of teaching and teaching-related activities." R. 75 Ex. I at 3.

Meanwhile, Sheridan wrote an eight-page Department Chair Report (which Monroe contends is far longer than is customary), in which he noted improvements in Monroe's course evaluations. R. 75 Ex. J at 1. Nevertheless, Sheridan stated that "there remain significant concerns related to reliability, punctuality, and the discharge of contracted full-time duties such as student advising, and thoroughness in teaching methodology." *Id.* at 8. The Report cited examples of Monroe failing to appear for student meetings, providing late student feedback, and neglecting other administrative responsibilities. *See id.* 4-5. The Report also included an excerpt from a negative student evaluation in a course in which the comments were overwhelmingly positive. R. 92 ¶ 28. Ultimately, Sheridan concluded that Monroe's performance in the area of "Teaching and Teaching-Related Activity" fell below the standard required for tenure. R. 75 Ex. J at 8.

The All College Tenure Committee voted unanimously to deny Monroe tenure. *Id.* Ex. K at 1. The Committee noted that Monroe's "efforts have consistently fallen short of both the department's and

the college's standards" and that "two of his three reviewers did not endorse his tenure bid." *Id.* In a March 18, 2013 letter, Vice President Love informed Monroe that "after reviewing your tenure dossier and recommendations of three external reviewers, the tenured members of the Film & Video Department, Chair Bruce Sheridan, Dean Robin Bargar, and the All-College Tenure Committee, I have decided that Columbia College Chicago will not grant you tenure." *Id.* Ex. L. The language in Love's letter closely followed the language in Sheridan's report. R. 92 ¶ 39.

Monroe contends that Sheridan's Department Chair Report contained numerous misrepresentations. R. 87 Ex. E ¶¶ 36-43. Monroe also claims that missing student-advising sessions and submitting forms late were common occurrences in the department. R. 92 ¶¶ 34-35. Monroe further contends that Sheridan denied him the opportunity to teach interdisciplinary courses that would have helped his tenure application. *Id.* ¶ 37. Monroe points to affidavits from a former African-American tenure-track professor in the department and a former African-American student as evidence of an ongoing pattern of discrimination involving Sheridan. *See* R. 87 Exs. O, P.

Defendants now move for summary judgment on Monroe's claims under Title VI (Count IV) and for intentional interference with contract (Count V) and prospective economic advantage (Count VI).[2]

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[2] The Court previously dismissed Counts I-III as time-barred. *See* R. 62.

Analysis

I. Title VI (Count IV)

Title VI provides that "[n]o person in the United States, shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.

The parties disagree whether a five-year or two-year statute of limitations applies to claims under Title VI. Monroe's employment with Columbia ended in May 2014. He filed this lawsuit in August 2017. Accordingly, even assuming Monroe could state a cognizable Title VI claim through the last day of his employment, his claim is barred if the statute of limitations is two years. If it's five years, it is not.

Title VI does not contain a statute of limitations. Instead, Monroe relies on *Beard v. Robinson*, 563 F.2d 331 (7th Cir. 1977), which held that "the Illinois five-year statute of limitations applies to statutory claims brought under the Civil Rights Acts." 563 F.2d at 338. Following *Beard*, the Supreme Court held that the applicable statute of limitations for section 1981 and section 1983 claims is the state period for personal injury torts. *See Wilson v. Garcia*, 471 U.S. 261, 280 (1985) (§ 1983); *Goodman v. Lukens Steel Co.*, 482 U.S. 656, 660-62 (1987) (§ 1981). In Illinois, the personal-

injury statute of limitations is two years.[3] 735 ILCS 5/13-202.

However, so far as the Court can tell, the Seventh Circuit has not directly decided a statute of limitations question in the context of Title VI. *See Allen v. Bd. of Governors of State Colleges and Universities*, 78 F.3d 586, 1996 WL 102678 (7th Cir. 1996) (unpublished) ("The parties have contested the district court's application of Illinois' five-year statute of limitations on the Title VI claim. However, we need not decide this issue, since we hold on the merits that summary judgment for defendants was proper.") (internal citations omitted). Since *Garcia*, some district courts in this circuit have held that a five-year statute of limitations continues to govern claims under Title VI. *See, e.g.*, *Lewis v. Russe*, 713 F. Supp. 1227, 1232 (N.D. Ill. 1989); *Allen v. Bd. of Governors of State Colleges and Universities*, 1993 WL 69674, at *2 (N.D. Ill. Mar. 11, 1993); *Brewer v. Bd. of Trustees of the Univ. of Illinois*, 407 F. Supp. 2d 946, 961 (C.D. Ill. 2005), *aff'd*, 479 F.3d 908 (7th Cir. 2007). More recent cases have concluded that the personal-injury statute of limitations applies. *See, e.g.*, *Davis v. City of*

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[3] In 1990, Congress adopted a four-year statute of limitations for federal claims. 28 U.S.C. § 1658. However, "the Supreme Court has interpreted § 1658 to apply only 'if the plaintiff's claim against the defendant was made possible by a post-1990 enactment,' and to leave 'in place the 'borrowed' limitations periods for pre-existing causes of action.'" *Campbell v. Forest Preserve Dist. of Cook Cty., Ill.*, 752 F.3d 665, 667-68 (7th Cir. 2014) (quoting *Jones v. R.R. Donnelley & Sons Co.*, 541 U.S. 369, 382 (2004)). Because Monroe's Title VI claim was not made possible by a post-1990 amendment, the four-year statute of limitations does not apply.

Springfield, 2012 WL 5471951, at *7 (C.D. Ill. Nov. 9, 2012); *Robbins v. DePaul Univ.*, 2014 WL 7403381, at *2 (N.D. Ill. Dec. 29, 2014); *Rodgers v. Allen Superior Court*, 2017 WL 879635, at *3 (N.D. Ind. Mar. 6, 2017). Other courts have noted the tension but declined to take a position. *See C.S. v. Couch*, 843 F. Supp. 2d. 894, 906 n.15 (N.D. Ind. 2011) ("In the Seventh Circuit, however, the statute of limitations for Title VI claims is somewhat unclear."); *Torrespico v. Columbia College*, 1998 WL 703450, at *11 n.9 (N.D. Ill. Sept. 30, 1998).

The Court holds that Illinois's two-year statute of limitations for personal injury claims applies to claims under Title VI. First, *Beard*—the Seventh Circuit case applying a five-year statute of limitations—involved claims brought under 42 U.S.C. § 1981 and *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971). But the Seventh Circuit has since held that the five-year statute of limitations no longer applies to either claim. *See Dandy v. United Parcel Service, Inc.*, 388 F.3d 263, 269 (7th Cir. 2004) (§ 1981); *Delgado-Brunet v. Clark*, 93 F.3d 339, 342 (7th Cir. 1996) (*Bivens*). That alone calls into question *Beard*'s continued viability. Moreover, the court decided *Beard* based on what it perceived as "fundamental differences between a civil rights action and a common law tort." *Beard*, 563 F.2d at 336. That reasoning is at odds with the Supreme Court's decision in *Garcia*, which based its holding on the similarities between tort claims for personal injury and claims under section 1983. *See Garcia*, 471 U.S. at 276-80. And the rationale from *Garcia* also applies to Title VI. As *Garcia* explained, section 1983 protects a "person" from a deprivation of rights and "creates a cause of

action where there has been injury, under color of state law, to the person or to the constitutional or federal statutory rights which emanate from or are guaranteed to the person." *Gomez*, 471 U.S. at 278 (quoting *Almond v. Kent*, 459 F.2d 200, 204 (4th Cir. 1972)). Thus, in "the broadest sense, every cause of action under § 1983 which is well-founded results from 'personal injuries.'" *Id.* Likewise, Title VI protects a "person" from discrimination. And an "injury resulting from discrimination produces impairments and wounds to the rights and dignities of the individual." *Baker v. Bd. of Regents of State of Kan.*, 991 F.2d 628, 631 (10th Cir. 1993). As such, Title VI claims can be fairly characterized as resulting from "personal injuries."

Indeed, every circuit to consider the question has held that the appropriate statute of limitations for Title VI claims is a state's limitations period for personal injury claims. *See Rozar v. Mullis*, 85 F.3d 556, 561 (11th Cir. 1996); *Baker*, 991 F.2d at 631; *Taylor v. Regents of Univ. of California*, 993 F.2d 710, 712 (9th Cir. 1993); *Egerdahl v. Hibbing Cmty. Coll.*, 72 F.3d 615, 618 (8th Cir. 1995); *Lillard v. Shelby Cty. Bd. of Educ.*, 76 F.3d 716, 729 (6th Cir. 1996) (in Title IX case stating that "a number of cases determining the limitations period for judicial proceedings under Title VI provide guidance by analogy. Indeed, all of the circuits deciding the issue have uniformly applied the state personal injury limitations period."); *Jersey Heights Neighborhood Ass'n v. Glendening*, 174 F.3d 180, 187 (4th Cir. 1999); *Thomas v. Care Plus of New Jersey, Inc.*, 484 F. App'x 692, 693 (3d Cir. 2012); *see also Frazier v. Garrison I.S.D.*, 980 F.2d 1514, 1521 (5th Cir. 1993) (affirming and stating that the "district

court held that since Title VI, like § 1983, involved a claim of discrimination in public employment, considerations of fairness and uniformity dictated the same statute of limitations apply to a Title VI claim as to a § 1983 claim."); *Carter v. Univ. of Connecticut*, 264 F. App'x 111, 112 (2d Cir. 2008) (noting that the parties do not dispute that Connecticut's personal injury statute of limitations applies to Title VI claim).

And while the Seventh Circuit has not expressly so held, language from several opinions indicates that that the forum state's personal injury statute of limitations also governs claims under Title VI. *See Sanders v. Venture Stores, Inc.*, 56 F.3d 771, 775 n.2 ("we will note that federal civil rights actions are governed by the personal injury statute of limitations in the state where the alleged injury occurred."); *Bush v. Commonwealth Edison Co.*, 990 F.2d 928, 933 (7th Cir. 1993) ("The Supreme Court has held that in borrowing statutes of limitations for federal civil rights cases the courts should look to state statutes governing personal injury suits."); *Porter v. U.S. Gen. Servs. Admin*, 151 F.3d 1033, 1998 WL 516785 (7th Cir. 1998), *amended*, 1998 WL 614752 (7th Cir. Aug. 17, 1998) (unpublished) ("We have long held that the proper statute of limitations for federal civil rights actions arising out of events in Illinois is two years.").

Accordingly, the Court finds that Title VI claims are subject to a two-year statute of limitations in Illinois. Because Monroe did not file this lawsuit within two years of the alleged unlawful conduct, his claim is time-barred. As such, the Court does not reach the merits of

Monroe's claim. The Defendants' motion for summary judgment on Monroe's Title VI claim is granted.

II. Intentional Interference with Contract (Count V)

To state a claim for tortious interference with contract, Monroe must establish: "(1) a valid contract, (2) defendant's knowledge of the contract, (3) defendant's intentional and unjustified inducement of a breach of the contract, (4) a subsequent breach of contract caused by defendant's wrongful conduct, and (5) damages." *Webb v. Frawley*, 906 F.3d 569, 577 (7th Cir. 2018) (citing *Healy v. Metro. Pier & Exposition Auth.*, 804 F.3d 836, 842 (7th Cir. 2015)).

Monroe correctly points out that not complying with provisions in an employee handbook or employment policy may constitute a contractual breach. R. 86 at 12-13. (citing *Duldulao v. St. Mary of Nazareth Hosp. Ctr.*, 505 N.E.2d 314 (Ill. 1987) and *Hentosh v. Herman M. Finch Univ. of Health Scis./The Chicago Med. Sch.*, 734 N.E.2d 125 (Ill. App. Ct. 2000)). But to establish tortious interference with contract, a breach still must occur. *See Strosberg v. Brauvin Realty Servs., Inc.*, 691 N.E.2d 834, 845 (Ill. App. Ct. 1998) ("in order to establish [intentional interference with contract] there must be evidence of a breach of contract caused by the defendant."). Both *Duldulao* and *Hentosh*, the cases Monroe cites to support his position, involved defendants who breached specific provisions of their employee handbooks. *See Duldulao*, 505 N.E.2d at 319-20; *Hentosh*, 734 N.E.3d at 128-29. In contrast, Monroe does not direct the Court to a single contractual provision that Columbia failed to follow. Columbia's

Statement of Policy on Academic Freedom, Faculty Status, Tenure, and Due Process provides that a "faculty member with a Tenure-Track Appointment has the right to be evaluated in accordance with the procedures and criteria set forth in Section VI." R. 75 Ex. B at 5. In turn, Section VI outlines the tenure evaluation procedure, including the multitiered review by department faculty, the Department Chair, the School Dean, and the Vice President for Academic Affairs. *See id.* 8-12. Monroe does not suggest that Columbia didn't follow that procedure. Rather, he broadly asserts that he "was contractually entitled to a fair tenure process, one untainted by a purposeful attempt to undermine him." R. 86 at 12. He then lists examples of ways Sheridan undermined his tenure bid, including assigning him to teach only introductory classes, harming his relationship with potential collaborators, and refusing to assign him coordinator positions. *Id.* at 13. But Monroe does not point to where his contractual agreement with Columbia guarantees him the right to teach advanced-level courses and/or hold a leadership position. Monroe's entire argument focuses on Sheridan's interference without ever addressing Columbia's breach. Because Monroe fails to put forth any evidence that Columbia breached its agreement with him, his claim fails. The Court grants summary judgment for Defendants on Count V.

III. Intentional Interference with Prospective Economic Advantage (Count VI)

Under Illinois law, to prevail on a claim for tortious interference with prospective economic advantage, a plaintiff must show: "(1) a reasonable expectancy of

entering into a valid business relationship, (2) the defendant's knowledge of the expectancy, (3) an intentional and unjustified interference by the defendant that induced or caused a breach or termination of the expectancy, and (4) damage to the plaintiff resulting from the defendant's interference." *Adelman-Reyes v. Saint Xavier Univ.*, 500 F.3d 662, 667 (7th Cir. 2007) (quoting *Evans v. City of Chicago*, 434 F.3d 916, 929 (7th Cir. 2006)).

Defendants argue that Monroe's claim fails because he did not have a reasonable expectation of tenure. Monroe responds that Sheridan acted with discriminatory animus but otherwise ignores Defendants' argument. R. 86 at 13-14. The tenure process detailed in Columbia's Statement of Policy on Academic Freedom, Faculty Status, Tenure, and Due Process makes clear that a "faculty member with a Tenure-Track Appointment does not have a right to the renewal of his or her Appointment or to be granted a Tenured Appointment at the end of his or her Tenure-Track Period[.]" R. 75 Ex. B. at 5. The handbook contains no provisions that expressly or impliedly promise a tenure appointment. *See Goswami v. DePaul Univ.* 2014 WL 125600, at *6 (N.D. Ill. Jan. 14, 2014) ("The handbook's recital of procedures and criteria does not create a reasonable expectation of receiving tenure."). To the contrary, the handbook states that a "Tenured Appointment is a commitment that Columbia College Chicago makes only to the most talented persons who seek to become long-term members of its faculty." R. 75 Ex. B at 6.

Monroe does not cite a single case in which a court found a professor had a reasonable expectation of receiving tenure. And the lack of Monroe's reasonable expectation appears particularly clear here given the initial decision to terminate his employment after his third-year review. Even in President Carter's reversal of that decision, he informed Monroe: "For a faculty member to be awarded tenure at Columbia College Chicago, he/she must be able to demonstrate clearly having achieved the standard of 'excellence' as a teacher; it is the faculty member's responsibility to show evidence of this. This standard is articulated clearly in the College's Tenure Document. I suggest strongly that you take advantage of every resource available to you, to ensure that your teaching continues to improve." R. 87 Ex. J (emphasis in original). That is a far cry from any reasonable assurance that Monroe would be granted tenure. Indeed, Sheridan's Department Chair Report, the All College Tenure Committee Report, and Love's letter denying Monroe tenure highlight similar teaching-related deficiencies previously identified in Monroe's third-year review evaluations. The Court recognizes Monroe's concern that implicit bias may partially account for some of his negative feedback (and that he may have received better evaluations had Sheridan assigned him to teach more graduate-level courses). But that is a separate question from whether Monroe ever had a reasonable expectation of receiving a tenure appointment. On this point, Monroe puts forth no evidence. *See Williams v. Weaver*, 495 N.E.2d 1147, 1152 (Ill. App. Ct. 1986) ("although [plaintiff] alleges numerous acts of wrongful conduct by the various defendants, [he] has presented no facts establishing the existence of a reasonable

expectancy of an economic advantage or a continuing business relationship."). The Court is thus left to assume that Monroe merely hoped he would be granted tenure. And "the mere hope of continued employment, without more, does not . . . constitute a *reasonable* expectancy." *Montes v. Cicero Pub. Sch. Dist. No. 99*, 141 F. Supp. 3d 885, 900 (N.D. Ill. 2015) (alterations in original) (quoting *Williams*, 495 N.E.2d at 1152) (holding that plaintiff did not have a reasonable expectation of continued employment); *see Goswami*, 2014 WL 125600, at *7 (plaintiff did not have a reasonable expectation of tenure even though she had consistently positive reviews because the tenure decision was highly discretionary). Accordingly, the Court grants summary judgment for Defendants.[4]

Conclusion

For the reasons stated above, the Court grants the Defendants' motion for summary judgment [R. 73].

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[4] Moreover, as an agent of Columbia, Sheridan holds a qualified privilege that protects him from being sued for tortious interference. *Adelman-Reyes*, 500 F.3d at 668. Sheridan loses that privilege if he acted "maliciously." *Id.* In this context, malice requires a "direct intention to injure" or a "reckless disregard" of Monroe's rights and the consequences that may result to him. *Id.* The Court doubts that Sheridan's conduct rises to the level of malice required for him to lose his privilege. *See id.* (evidence of an ongoing conflict between tenure candidate and school dean and comments without proper support in dean's adverse tenure recommendation insufficient to show malice). Nevertheless, because Monroe has failed to put forth evidence to fully satisfy the elements of his tortious interference claims, the Court need not make that determination here.

ENTERED:

/s/ Thomas M Durkin

Honorable Thomas M. Durkin
United States District Judge

Dated: March 30, 2020

APPENDIX E

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS

Case No. 17 C 5837
Judge Thomas M. Durkin

[Filed: March 30, 2020]

VAUN MONROE,	)
	)
Plaintiff(s),	)
	)
v.	)
	)
COLUMBIA COLLEGE CHICAGO and BRUCE SHERIDAN,	)
	)
Defendant(s).	)

JUDGMENT IN A CIVIL CASE

Judgment is hereby entered (check appropriate box):

☐ in favor of plaintiff(s)
and against defendant(s)
in the amount of $,

which ☐ includes pre–judgment interest.
☐ does not include pre–judgment interest.

Post-judgment interest accrues on that amount at the rate provided by law from the date of this judgment.

Plaintiff(s) shall recover costs from defendant(s).

X in favor of defendant(s) COLUMBIA COLLEGE CHICAGO and BRUCE SHERIDAN and against plaintiff(s) VAUN MONROE

Defendant(s) shall recover costs from plaintiff(s).

☐ other:

This action was *(check one)*:

☐ tried by a jury with Judge presiding, and the jury has rendered a verdict.
☐ tried by Judge without a jury and the above decision was reached.
X decided by Judge Thomas M. Durkin on a motion.

Date: 3/30/2020

Thomas G. Bruton, Clerk of Court

Claire E. Newman, Deputy Clerk

APPENDIX F

United States Court of Appeals
FOR THE SEVENTH CIRCUIT
CHICAGO, ILLINOIS 60604

April 12, 2021

No. 20-1530

[Filed: April 12, 2021]

Before

DIANE S. SYKES, *Chief Judge*

JOEL M. FLAUM, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

VAUN MONROE,
Plaintiff-Appellant,

v.

COLUMBIA COLLEGE CHICAGO and BRUCE SHERIDAN,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 1:17-cv-05837

Thomas M. Durkin,
Judge.

O R D E R

On consideration of the Petition For Panel Rehearing, filed by Plaintiff-Appellant on April 2, 2021, all members of the original panel have voted to DENY the Petition for Rehearing.

Accordingly, the Petition for Panel Rehearing is **DENIED**.