UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-2032

REV. CARL A. MELVIN,

Plaintiff - Appellant,

v.

HAMPTON-NEWPORT NEWS COMMUNITY SERVICES BOARD,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Raymond A. Jackson, Senior District Judge. (4:19-cv-00069-RAJ-LRL)

Submitted: September 28, 2023 Decided: October 2, 2023

Before NIEMEYER, THACKER, and RUSHING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Carl A. Melvin, Appellant Pro Se. Jeff W. Rosen, PENDER & COWARD, PC, Virginia Beach, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Carl A. Melvin appeals the district court's order granting Defendant's motion for summary judgment on Melvin's claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e to 2000e-17, and dismissing without prejudice his state law claim. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *Melvin v. Hampton-Newport News Cmty. Servs. Bd.*, No. 4:19-cv-00069-RAJ-LRL (E.D. Va. Sept. 1, 2022). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

REV. CARL A. MELVIN,

Plaintiff,

v. **ACTION NO. 4:19cv69**

HAMPTON-NEWPORT NEWS COMMUNITY SERVICES BOARD,

Defendant.

DISMISSAL ORDER

Plaintiff Rev. Carl A. Melvin ("Plaintiff"), appearing *pro se*, filed this action against his former employer, Defendant Hampton-Newport News Community Services Board ("Defendant"). Compl. at 1-15, ECF No. 3. Plaintiff asserts several claims against Defendant pursuant to Title VII of the Civil Rights Act of 1964 ("Title VII"). *Id.* Plaintiff also asserts a claim pursuant to Virginia Code § 2.2-3011, which is the provision of Virginia's Fraud and Abuse Whistle Blower Protection Act ("FAWBPA") that prohibits discrimination and retaliatory actions against whistle blowers. *Id.* at 3, 6, 10-13. This matter is before the Court on the following motions:

(i) Defendant's Renewed Motion for Summary Judgment ("Motion for Summary Judgment"), ECF No. 69;

(ii) Plaintiff's Motion to Quash and Extend Expert Witness Deadline, ECF No. 67;

(iii) Plaintiff's Motion for Judgment on the Pleadings ("First Motion for Judgment on the Pleadings"), ECF No. 75;

(iv) Defendant's Motion to Strike, ECF No. 80;

(v) Plaintiff's Motion to Compel, ECF No. 83; and

(vi) Plaintiff's Motion for Judgment on the Pleadings ("Second Motion for Judgment on the Pleadings"), ECF No. 84.

The Court concludes that oral argument is unnecessary because the facts and legal arguments are adequately presented in the parties' briefs. For the reasons set forth below, Defendant's Motion for Summary Judgment, ECF No. 69, is **GRANTED** as to Plaintiff's Title VII claims, and such claims are **DISMISSED** with prejudice. The Court declines to exercise supplemental jurisdiction over Plaintiff's state law FAWBPA claim. Accordingly, Plaintiff's state law FAWBPA claim is **DISMISSED** without prejudice. Plaintiff's First Motion for Judgment on the Pleadings, ECF No. 75, is **DENIED**; Plaintiff's Second Motion for Judgment on the Pleadings, ECF No. 84, is **DENIED**; Plaintiff's Motion to Quash and Extend Expert Witness Deadline, ECF No. 67, is **DISMISSED as moot**; Defendant's Motion to Strike, ECF No. 80, is **DISMISSED as moot**; Plaintiff's Motion to Compel, ECF No. 83, is **DISMISSED as moot**; and this civil action is **DISMISSED**.

I. Relevant Procedural Background

On April 18, 2022, Defendant filed a Motion for Summary Judgment, and provided *pro se* Plaintiff with a proper *Roseboro* Notice pursuant to Rule 7(K) of the Local Civil Rules of the United States District Court for the Eastern District of Virginia. Mot. Summ. J., ECF No. 69; *Roseboro* Notice, ECF No. 71; *see* E.D. Va. Loc. Civ. R. 7(K). In support of its Motion for Summary Judgment, Defendant submitted: (i) an affidavit of Nicole Jackson, who works as a Program Administrator for Defendant ("Jackson Affidavit"), ECF No. 70-1; (ii) an affidavit of Debbie Hood, who works as a Program Coordinator for Defendant ("Hood Affidavit"), ECF No. 70-4; (iii) an affidavit of Kimberly Thompson, who works as the Director of Human Resources for Defendant ("Thompson Affidavit"), ECF No. 70-5; (iv) an affidavit of Karen Matthews, who works as a Compliance and Standards Manager for Defendant ("Matthews Affidavit"), ECF No. 70-10; (v) a supplemental affidavit of Nicole Jackson ("Supplemental Jackson Affidavit"),

ECF No. 70-23; (vi) a supplemental affidavit of Karen Matthews ("Supplemental Matthews Affidavit"), ECF No. 70-26; (vii) an affidavit of Melanie Bond, who works as the Director of the Office of Quality Management and Corporate Compliance for Defendant ("Bond Affidavit"), ECF No. 70-27; (viii) Plaintiff's deposition transcript, ECF No. 70-28; (ix) various policies and procedures of Defendant, ECF Nos. 70-2, 70-6, 70-13, 70-20, 70-21, 70-22, 70-24, 70-25; (x) a job description for a Behavioral Counselor with Defendant, ECF No. 70-7; (xi) various work-related correspondence and personnel records, ECF Nos. 70-3, 70-8, 70-9, 70-11, 70-12, 70-14, 70-15, 70-19, 70-29, 70-30; and (xii) Plaintiff's grievance-related documents, ECF Nos. 70-16, 70-17, 70-18.

Plaintiff filed an Opposition[1] to Defendant's Motion for Summary Judgment, ECF No. 75, and attached thereto: (i) various work-related correspondence and personnel records, ECF No. 75-1, at 1-7, 21-27, 45-47; and (ii) copies of various exhibits submitted by Defendant in support of its Motion for Summary Judgment, ECF No. 75-1, at 8-20, 28-44, 48-109. Defendant filed a timely Reply in support of its Motion for Summary Judgment. Reply, ECF No. 76.

Defendant subsequently filed a Motion to Strike. Mot. Strike, ECF No. 80. Additionally, Plaintiff filed a Motion to Quash and Extend Expert Witness Deadline, a First Motion for Judgment on the Pleadings, a Motion to Compel, and a Second Motion for Judgment on the Pleadings. Mot. Quash & Extend Expert Witness Deadline, ECF No. 67; First Mot. J. Pleadings, ECF No. 75; Mot. Compel, ECF No. 83; Second Mot. J. Pleadings, ECF No. 84. All pending motions are ripe for adjudication.

[1] Plaintiff styled this filing as both an Opposition to Defendant's Motion for Summary Judgment and a request for judgment on the pleadings, ECF No. 75. As appropriate, the Court will refer to this document herein as either Plaintiff's Opposition or Plaintiff's First Motion for Judgment on the Pleadings.

II. Defendant's Motion for Summary Judgment

A. Statement of Undisputed Material Facts

For purposes of Defendant's Motion for Summary Judgment, the following are the undisputed material facts, which are relevant to Plaintiff's claims and are adequately supported by materials in the record:[2]

In May of 2017, Plaintiff, an African American male, began working for Defendant as a Behavioral Counselor in its Therapeutic Day Treatment ("TDT") program. Thompson Aff. ¶ 4, ECF No. 70-5; Pl. Dep. at 6-7, 57, ECF No. 70-28. The TDT program "serves over 850 students per year who have a mental, behavioral, or emotional illness which results in significant functional impairments in major life activities." Jackson Aff. ¶ 4, ECF No. 70-1. The program is "licensed by the Virginia Dep[artment] of Behavior Health and Developmental Services and is the sole

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[2] When a party moves for summary judgment, the moving party is required to "include a specifically captioned section listing all material facts as to which the moving party contends there is no genuine issue," and to cite "the parts of the record relied on to support the listed facts as alleged to be undisputed." E.D. Va. Loc. Civ. R. 56(B); *see* Fed. R. Civ. P. 56(c)(1). The nonmoving party's response brief "shall include a specifically captioned section listing all material facts as to which it is contended that there exists a genuine issue necessary to be litigated and citing the parts of the record relied on to support the facts alleged to be in dispute." E.D. Va. Loc. Civ. R. 56(B); *see* Fed. R. Civ. P. 56(c)(1). If a nonmoving party "fails to properly address another party's assertion of fact as required by Rule 56(c)," the Court may "consider the fact undisputed for purposes of the motion" or "grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it." Fed. R. Civ. P. 56(e).

In its Motion for Summary Judgment, Defendant lists the material facts that it contends are undisputed in this action and cites to the record to support its contentions. Mem. Supp. Mot. Summ. J. at 2-13, ECF No. 70. Plaintiff filed an Opposition to Defendant's Motion for Summary Judgment; however, Plaintiff does not include "a specifically captioned section listing all material facts as to which it is contended that there exists a genuine issue necessary to be litigated," and does not clearly cite to "the parts of the record relied on to support the facts alleged to be in dispute." Opp'n, ECF No. 75; E.D. Va. Loc. Civ. R. 56(B); *see* Fed. R. Civ. P. 56(c)(1). Accordingly, the Court may properly consider Defendant's facts as undisputed for purposes of resolving its Motion for Summary Judgment. *See* Fed. R. Civ. P. 56(e).

provider of therapeutic day treatment in the Hampton and Newport News Public School Systems." *Id.* ¶ 3.

As a Behavioral Counselor, Plaintiff was responsible for providing "milieu treatment, behavior management, supervision and case management services for emotionally disturbed children or children at risk of emotional disturbance." Job Description at 1, ECF No. 70-7; *see* Pl. Dep. at 7, 25. In his deposition, Plaintiff testified that he would provide "intervention" services for "kids that have behavior challenges." Pl. Dep. at 7. Plaintiff would serve as a mediator between the student and the teacher and/or principal concerning disciplinary issues. *Id.* Additionally, Plaintiff would assist students in "crisis." *Id.* Plaintiff would meet with the students to "talk about stuff like anger management, resilience, [and] making good decisions." *Id.*

As explained in the job description for a Behavioral Counselor, "[w]orking with children and adolescents with extreme behavior problems . . . is often a difficult physical and emotional task" and "involves an element of potential personal endangerment by clients in the school or community." Job Description at 1-2. A Behavioral Counselor must "[a]ppropriately relat[e] to a variety of client personality types" and use his or her best "judgment and discretion" in doing so. *Id.* at 1. "It is imperative that Behavioral Counselors in the [TDT] program establish and maintain positive therapeutic relationships with individuals served in order to promote optimal behavioral and academic performance." Jackson Aff. ¶ 5.

When Plaintiff was hired as a Behavioral Counselor, he was fully aware "that he would encounter medically and clinically diagnosed children and adolescents . . . with a varied degree of mental, behavioral, or emotional illness, and with diagnoses often derived from exhibited internal and external systems impacting interpersonal relations with family and other peers and adults."

Suppl. Jackson Aff. ¶ 5, ECF No. 70-23. Upon hire, Plaintiff received "agency and program level training specific to the challenging populations, including children and adolescents," with whom Plaintiff would work as a Behavioral Counselor in the TDT program. *Id.* ¶ 6; Thompson Aff. ¶¶ 5-6; Pl. Dep. at 7-10.

In the Fall of 2017, Plaintiff was assigned to provide TDT services at Benjamin Syms Middle School, along with two other TDT counselors, Bethany Miller ("Ms. Miller") and Ashli Eiley ("Ms. Eiley"), under the supervision of Brianna Berkley ("Ms. Berkley"). Pl. Dep. at 11-17. On October 31, 2017, Ms. Berkley explained to Plaintiff, both in person and via email, that "only TDT students are allowed in the TDT office." Individual Supervision Log at 1, ECF No. 70-3. However, during an "observation" at the school on November 27, 2017, Ms. Berkley "witnessed non-TDT students in the TDT office and coached [Plaintiff] on how to talk with students to redirect non-TDT students from the TDT office." *Id.* The next day, Plaintiff "allowed non-TDT students in the TDT office and there was an incident between a TDT and non-TDT student." *Id.* On or about November 29, 2017, these issues were written up in an Individual Supervision Log and subsequently discussed with Plaintiff. *Id.* Plaintiff was advised that "[f]urther disciplinary action may be taken if policy and procedures are not enforced." *Id.*

Plaintiff submitted a response to the Individual Supervision Log on December 4, 2017. Resp., ECF No. 70-8; Pl. Dep. at 31. In his response, Plaintiff claimed that he was being inappropriately blamed for the presence of non-TDT students in the TDT office. Resp. at 1. Plaintiff also stated that he felt that he was being "targeted" by one of his peers. *Id.* Plaintiff claimed that this peer would "report minor . . . infractions" made by Plaintiff, even though the peer was "guilty of making her own infractions." *Id.* Plaintiff stated that this type of "targeting" and "harassment" "should not be tolerated," and that "team members" should "learn to deal with their

own issues and not trouble bosses, coaches, and supervisors with things that can or should be dealt with in-house." *Id.* at 2.

On December 4, 2017, Debbie Hood ("Dr. Hood"), the Program Coordinator for the TDT program, met with Plaintiff to discuss the comments made in his response to the Individual Supervision Log. Hood Aff. ¶ 3, ECF No. 70-4. During the meeting, Plaintiff told Dr. Hood that his coworker, Ms. Miller, "was constantly targeting [Plaintiff]" and "made a negative comment about" "[a]nything [Plaintiff] did." Pl. Dep. at 32.

On December 6, 2017, Nicole Jackson ("Ms. Jackson"), the Program Administrator for the TDT program, followed up with Plaintiff via email regarding his response to the Individual Supervision Log. Jackson Aff. ¶¶ 1, 6; Email at 1-2, ECF No. 70-9. Ms. Jackson emphasized that "work place relations are a top priority," and asked to meet with Plaintiff to further discuss his response and to "ensure that [Plaintiff] [did] not feel 'targeted' or 'harassed' in any way by program staff." Email at 2. In his response to Ms. Jackson's email, Plaintiff stated that he "felt the issue was debriefed and heard by Dr. Hood." *Id.* at 1. Ms. Jackson replied to Plaintiff, stating that she was "pleased to hear that [Plaintiff] felt heard by Dr. Hood and that this issue [was] resolved." *Id.* Neither Dr. Hood nor Ms. Jackson heard anything further from Plaintiff "with regard to his concerns of being targeted or harassed by other program staff." Jackson Aff. ¶ 8; Hood Aff. ¶ 4.

On February 13, 2018, Plaintiff emailed Ms. Berkley with concerns regarding a student in the TDT program at Benjamin Syms Middle School, whom the Court will refer to herein as "MW." Suppl. Jackson Aff. ¶ 8. Ms. Berkley immediately reported Plaintiff's concerns to Dr. Hood, and advised Plaintiff that Ms. Berkley would meet with Plaintiff to discuss his concerns on the following day. *Id.* On February 14, 2018, Ms. Berkley met individually with Plaintiff, MW,

and others at Benjamin Syms Middle School. *Id.* ¶ 9. During Ms. Berkley's discussion with MW, MW made claims against Plaintiff that required further investigation. *Id.* ¶¶ 9-10. "[A]fter consult[ing] with TDT program leadership," Ms. Berkley "submitted an incident report" on February 20, 2018, that alleged verbal abuse by Plaintiff against MW.[3] Suppl. Matthews Aff. ¶ 3; Incident Report at 1-4, ECF No. 70-29. The incident report stated, in relevant part:

> On 2/14/18, CIS[4] met with [MW], a TDT student at Benjamin Syms Middle School[,] to assess student's satisfaction with services based on concerns expressed. [MW] reported to CIS that Behavioral Counselor, [Plaintiff], called him "short" multiple times while in the TDT office. [MW] reported that he did not like being called "short" and because of being called "short", he cursed at [Plaintiff]. [MW] also reported that [Plaintiff] asked him if [MW's] response was "racially motivated" in the TDT office in front of other TDT students. [MW] reported that he told [Plaintiff] he was not racist and did not like being called racist.
>
> Based on [MW's] comments reported, CIS followed up with school administration to assess school satisfaction with two grade-level principals. The sixth grade principal stated that [Plaintiff's] "personality and skill level do not match the job or intensive needs of students at Syms." CIS also followed up with coworkers who confirmed the inappropriate exchange between [Plaintiff] and [MW] to include [Plaintiff] making statements as "If I told you what I really wanted to say, you would go home crying" and "mouse in the corner with the hairline" and arguing with [MW] about liking country music and stating "yes you do hee haw."

Incident Report at 1.

Ms. Matthews received the incident report on February 20, 2018, and initiated an investigation.[5] Suppl. Matthews Aff. ¶¶ 3-4. Ms. Matthews interviewed Plaintiff, Ms. Miller,

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[3] The relevant policy explains that "abuse" includes, among other things, the "[u]se of language that demeans, threatens, intimidates or humiliates the person." Policies & Procedures at 2, ECF No. 70-6 (citing 12 Va. Admin. Code § 35-115-30).

[4] In the incident report, "CIS" refers to Clinical Intervention Specialist, Ms. Berkley. Mem. at 1, ECF No. 70-12.

[5] On February 24, 2018, Plaintiff sent written correspondence to Ms. Matthews, in which Plaintiff alleged that Ms. Miller acted inappropriately towards another TDT student. Suppl. Matthews Aff. ¶ 5. Specifically, Plaintiff alleged that Ms. Miller (i) ridiculed the way the student "talk[ed] and the way he pronounce[d] his words"; and (ii) referred to the student as "gay." Mem. at 2, ECF No. 70-19. "[T]o preserve the integrity of the ongoing investigation" regarding

Ms. Berkley, and MW.[6] *Id.* ¶¶ 4, 7. Additionally, Ms. Matthews "completed a record review of MW's medical record, and reviewed the TDT program policies and procedures." *Id.* ¶ 7.

Ms. Matthews summarized the statements made by Plaintiff during his interview as follows:

> [Plaintiff] provided the following testimony:
>
> "Yes, I called him 'short' . . . he calls me 'knucklehead' and other names, so I asked him, 'How would you like it if I called you short?'. His friends even call him 'short'. I do feel [MW] is racially motivated . . . his focus is on me and his friends confront him about being racist. I have asked him, 'We have five people in this room, why do you pick me out of these five people . . . are you racially motivated?' [MW] started all of these interactions . . . I did say to him, 'If I said the things I could say to you, you would not like me'. I was trying to prove a point. He told me to change my radio station . . . he wants to listen to rap . . . I don't remember saying anything about him liking country music. Ask my clients who are on my caseload . . . they will tell you they have confronted [MW] about his behaviors towards me. Some parents teach their children not to respect a black man . . . and I think that is what he is doing . . . I have rights as a counselor . . . and I would never jeopardize a child . . . but what about our rights as employees . . . this is considered harassment so what is the agency going to do to protect me?

Mem. at 2-3, ECF No. 70-12 (ellipses in original).

During Ms. Matthews's interview with Ms. Miller, Ms. Miller stated that Plaintiff's "behaviors towards [MW] are inappropriate." *Id.* at 3. With respect to the specific allegations of verbal abuse, Ms. Miller stated:

> "[MW] is small for his age and peers often make fun of him. I have witnessed [MW] asking [Plaintiff] to stop calling him 'short', but [Plaintiff] continued to call him 'short' even after he was asked to stop. [MW] continues to tell him to stop calling him that name. . . . One day [MW] was in the TDT office for a cool-down

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Plaintiff's alleged verbal abuse of MW, Ms. Matthews did not initiate the investigation into Plaintiff's claims against Ms. Miller until after the conclusion of Plaintiff's investigation. Suppl. Matthews Aff. ¶ 6. Thereafter, Ms. Matthews interviewed the student in question and Ms. Miller, both of whom denied the allegations. Mem. at 1-4; *see* Matthews Aff. ¶¶ 4-5, 7-8; Suppl. Matthews Aff. ¶¶ 9-11. Ms. Matthews ultimately concluded that the allegations of wrongdoing asserted against Ms. Miller were unfounded. Mem. at 1-4.

[6] Ms. Matthews obtained consent from MW's legal guardian prior to interviewing MW. Suppl. Matthews Aff. ¶ 4.

> and he wanted to listen to rap music . . . [Plaintiff] said to him, 'You know you like country music . . . hee haw, hee haw, hee haw' . . . he was making fun of [MW]. [Plaintiff] says [MW] is racist . . . he keeps telling me that."

Id. (last four ellipses in original).

During Ms. Matthews's interview with MW, MW stated:

> "[Plaintiff] made me mad a lot . . . he called me racist and says I have a problem with blacks and I don't. . . . He makes fun of me and calls me short and I told him not to do that, but he doesn't listen and that makes me more madder [sic]. It feels like he was singling me out a lot."

Id. at 4 (first ellipsis in original).

Ms. Matthews summarized her investigation in a Memorandum dated March 13, 2018, and ultimately concluded that "[b]ased on the information obtained, there [was] a preponderance of information to support a finding of abuse towards [MW]." *Id.* at 5; *see* Suppl. Matthews Aff. ¶ 8. As a result, Ms. Matthews determined that "the allegation of abuse (verbal) [was] *substantiated.*" Mem. at 5 (emphasis in original). Based on this finding, Defendant terminated Plaintiff's employment as of March 12, 2018. Employee Counseling Record, ECF No. 70-14, at 2; Mar. 12, 2018 Letter, ECF No. 70-14, at 1.

Plaintiff appealed the termination decision. Appeal, ECF No. 70-15, at 1-3. In his appeal, Plaintiff claimed that he had been harassed by MW. *Id.* at 1. Plaintiff stated that MW would touch Plaintiff, invade Plaintiff's "personal space," go through Plaintiff's desk and "personal items," stare at Plaintiff for "prolonged periods" of time, curse at Plaintiff, and make other "derogatory statements." *Id.* Plaintiff claimed that Defendant ignored his complaints of harassment against MW and instead "flipped" the investigation around towards Plaintiff. *Id.* Plaintiff also claimed that his "coworker," presumably Ms. Miller, "created a hostile work environment of whispers, gossip, backstabbing, gender bias, [and] racial bias." *Id.* at 2. Plaintiff further claimed that his "coworker" "was on a private and secret mission to get [Plaintiff]

fired or in trouble based on her prejudice towards [Plaintiff] for being an African American male in education."[7] *Id.* Plaintiff's termination decision was upheld in a letter dated March 21, 2018. Mar. 21, 2018 Letter, ECF No. 70-15, at 4.

On April 2, 2018, Plaintiff filed a grievance with the Commonwealth of Virginia regarding his termination. Grievance, ECF No. 70-16. On September 11, 2018, a hearing officer issued a decision that upheld Defendant's termination decision. Decision, ECF No. 70-17. Thereafter, Plaintiff requested administrative review of the hearing officer's decision by the Office of Equal Employment and Dispute Resolution ("EEDR"). Administrative Review, ECF No. 70-18. On October 3, 2018, the director of the EEDR upheld the termination decision. *Id.*

In the instant action, Plaintiff claims that he was discriminated against, subjected to harassment, and terminated because of his race and gender in violation of Title VII. Pl. Dep. at 46; Compl. at 3-4. Plaintiff also claims that he was subjected to unlawful retaliation after submitting complaints about Ms. Miller. Pl. Dep. at 46; Compl. at 3-4. Finally, Plaintiff asserts a state law claim against Defendant pursuant to the FAWBPA, which prohibits discrimination and retaliatory actions against whistle blowers. Compl. at 3; *see* Va. Code Ann. § 2.2-3011.

B. Summary Judgment Standard

Summary judgment is appropriate only when the Court, viewing the record as a whole and in the light most favorable to the nonmoving party, determines that there exists no genuine dispute "as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *see Seabulk Offshore, Ltd. v. Am. Home Assur. Co.*, 377 F.3d 408, 418 (4th Cir. 2004); *see also* Fed. R. Civ. P. 56(a). "A dispute is genuine if a

[7] Despite Plaintiff's claims in his appeal letter regarding the alleged prejudice of his coworker, who is presumably Ms. Miller, Plaintiff testified in his deposition that Ms. Miller never made any comments to Plaintiff or others about Plaintiff's race or gender. Pl. Dep. at 23.

reasonable jury could return a verdict for the nonmoving party . . . [and] [a] fact is material if it might affect the outcome of the suit under the governing law." *Jacobs v. N.C. Admin. Office of the Courts*, 780 F.3d 562, 568 (4th Cir. 2015) (citations omitted). The moving party has the initial burden to show the absence of an essential element of the nonmoving party's case and to demonstrate that the moving party is entitled to judgment as a matter of law. *Honor v. Booz-Allen & Hamilton, Inc.*, 383 F.3d 180, 185 (4th Cir. 2004); *McLean v. Patten Cmtys., Inc.*, 332 F.3d 714, 718 (4th Cir. 2003); *see Celotex*, 477 U.S. at 322-25.

When the moving party has met its burden to show that the evidence is insufficient to support the nonmoving party's case, the burden then shifts to the nonmoving party to present specific facts demonstrating that there is a genuine issue for trial. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986); *Honor*, 383 F.3d at 185; *McLean*, 332 F.3d at 718-19. To successfully defeat a motion for summary judgment, the nonmoving party must rely on more than conclusory allegations, "mere speculation," the "building of one inference upon another," the "mere existence of a scintilla of evidence," or the appearance of "some metaphysical doubt" concerning a material fact. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252 (1986); *Thompson v. Potomac Elec. Power Co.*, 312 F.3d 645, 649 (4th Cir. 2002); *Tao of Sys. Integration, Inc. v. Analytical Servs. & Materials, Inc.*, 330 F. Supp. 2d 668, 671 (E.D. Va. 2004). Rather, there must be sufficient evidence that would enable a reasonable fact-finder to return a verdict for the nonmoving party. *See Anderson*, 477 U.S. at 252.

Although the Court is not "to weigh the evidence and determine the truth of the matter" at the summary judgment phase, the Court is required to "determine whether there is a genuine issue for trial." *Tolan v. Cotton*, 572 U.S. 650, 656 (2014) (quoting *Anderson*, 477 U.S. at 249); *see Jacobs*, 780 F.3d at 568-69. In determining whether there is a genuine issue for trial, "[t]he

relevant inquiry is 'whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law.'" *Stewart v. MTR Gaming Grp., Inc.*, 581 F. App'x 245, 247 (4th Cir. 2014) (quoting *Anderson*, 477 U.S. at 251-52).

C. Analysis

1. Title VII: Retaliation

As summarized above, Plaintiff claims that his termination constituted unlawful retaliation in violation of Title VII. Compl. at 4; Pl. Dep. at 46; *see* 42 U.S.C. § 2000e-3(a). In a case such as this, where a plaintiff lacks "sufficient direct or circumstantial evidence," courts apply the *McDonnell Douglas* burden-shifting framework to analyze the merits of a retaliation claim. *Guessous v. Fairview Prop. Invs., LLC*, 828 F.3d 208, 216 (4th Cir. 2016) (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973)).

Under the *McDonnell Douglas* framework, a plaintiff must first establish a *prima facie* case of retaliation. *Id.* To establish a *prima facie* case of retaliation under Title VII, a plaintiff must show that (i) he engaged in a protected activity; (ii) the defendant took an adverse employment action against him; and (iii) there was a causal link between the protected activity and the adverse employment action. *Id.* at 217; *see EEOC v. Navy Fed. Credit Union*, 424 F.3d 397, 405-06 (4th Cir. 2005). If the plaintiff is able to establish a *prima facie* case, the burden then shifts to the defendant to proffer a legitimate, non-retaliatory reason for its actions. *McDonnell Douglas Corp*, 411 U.S. at 802-03. If the defendant does so, the burden shifts back to the plaintiff to prove, by a preponderance of the evidence, that the defendant's stated reasons were not its true reasons, but were pretextual. *Anderson v. Westinghouse Savannah River Co.*, 406 F.3d 248, 268 (4th Cir. 2005).

a. Protected Activity

Defendant first argues that Plaintiff's retaliation claim fails because Plaintiff has not adequately established that he engaged in protected activity. Mem. Supp. Mot. Summ. J. at 18-21, ECF No. 70. The protected activity necessary to establish a Title VII retaliation claim may be based on:

> the "opposition clause," which makes it "an unlawful employment practice for an employer to discriminate against any of his employees . . . because he has opposed any practice made an unlawful employment practice by this subchapter," and the "participation clause," which makes it an unlawful employment practice for the employer to discriminate because the employee "has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter."

Johnson v. Portfolio Recovery Assocs., LLC, 682 F. Supp. 2d 560, 568 (E.D. Va. 2009) (quoting 42 U.S.C. § 2000e-3).

Plaintiff claims that he was retaliated against after he submitted complaints to management regarding Ms. Miller's behavior. Pl. Dep. at 46, 70-71. It appears that the first "complaint" on which Plaintiff bases his retaliation claim is Plaintiff's December 4, 2017 response to the Individual Supervision Log, which criticized Plaintiff for allowing non-TDT students in the TDT office. Individual Supervision Log at 1; Resp. at 1-2. In his response, Plaintiff stated that he felt that he was being "targeted" by Ms. Miller, and that Ms. Miller would "report minor . . . infractions" made by Plaintiff, even though Ms. Miller was "guilty of making her own infractions." Resp. at 1. Plaintiff stated that this type of "targeting" and "harassment" "should not be tolerated," and that "team members" should "learn to deal with their own issues and not trouble bosses, coaches, and supervisors with things that can or should be dealt with in-house." *Id.* at 2.

Plaintiff also submitted complaints about Ms. Miller in February 2018. Suppl. Matthews Aff. ¶ 2; Mem. at 1-4; Submission at 1-2, ECF No. 70-30. These complaints accused Ms. Miller

of making inappropriate comments to another TDT student and violating other work-related policies and procedures. Suppl. Matthews Aff. ¶ 2; Mem. at 1-4; Submission at 1-2.

Defendant argues that Plaintiff's complaints do not sufficiently "signal that [Plaintiff] was making a complaint about race or gender discrimination." Mem. Supp. Mot. Summ. J. at 19. Defendant argues: "At best, prior to his termination Plaintiff raised general concerns of exclusion or being singled out by a co-worker"; however, Plaintiff never suggests that "the motivation behind being singled out or excluded was because of [Plaintiff's] race or gender." *Id.* at 18-19. Additionally, Defendant points out that during Plaintiff's deposition, Plaintiff testified that Ms. Miller never made any comments about Plaintiff's race or gender. *Id.* at 21 (citing Pl. Dep. at 23).

Upon review of the parties briefs and the record evidence, the Court finds that Plaintiff has not provided sufficient evidence that would allow a reasonable fact-finder to conclude that Plaintiff engaged in protected activity, as defined by Title VII. *Johnson*, 682 F. Supp. 2d at 568. Accordingly, the Court further finds that Plaintiff has not established a *prima facie* case of Title VII retaliation.

b. Legitimate, Non-Retaliatory Reasons for Plaintiff's Termination

Assuming, for the sake of argument, that Plaintiff was able to establish a *prima facie* case of Title VII retaliation, Defendant argues that Plaintiff's retaliation claim would nevertheless fail because (i) Defendant has articulated legitimate, non-retaliatory reasons for its decision to terminate Plaintiff's employment; and (ii) Plaintiff cannot establish that Defendant's stated reasons are pretext for unlawful retaliation. Mem. Supp. Mot. Summ. J. at 24-25.

In its Motion for Summary Judgment, Defendant states that upon receipt of information regarding Plaintiff's suspected verbal abuse of MW, Defendant conducted an investigation, consistent with Defendant's governing rules, regulations, and policies. *Id.* at 23; Suppl. Matthews

Aff. ¶¶ 4, 7. During the investigation, Plaintiff admitted to calling MW "short" and directing other inappropriate remarks towards MW. Mem. at 2-3 (summarizing Ms. Matthews's interview with Plaintiff). Additionally, MW told Ms. Matthews:

> "[Plaintiff] made me mad a lot . . . he called me racist and says I have a problem with blacks and I don't. . . . He makes fun of me and calls me short and I told him not to do that, but he doesn't listen and that makes me more madder [sic]. It feels like he was singling me out a lot."

Id. at 4 (first ellipsis in original).

Ms. Matthews ultimately concluded, based on her investigation, that "there [was] a preponderance of information to support a finding of abuse towards [MW]." *Id.* at 5. Thus, Ms. Matthews determined that the allegation of verbal abuse was substantiated, and Plaintiff's employment was terminated as a result of this finding. *Id.*; *see* Employee Counseling Record, ECF No. 70-14, at 2; Mar. 12, 2018 Letter, ECF No. 70-14, at 1.

Here, the Court finds that Defendant's stated reasons for Plaintiff's termination are adequately supported by evidence in the record. Thus, the Court further finds that Defendant has met its burden to show that it had legitimate, non-retaliatory reasons for terminating Plaintiff's employment. Therefore, to survive Defendant's summary judgment challenge, Plaintiff must establish, by a preponderance of the evidence, that Defendant's stated reasons for his termination are pretextual. *McDonnell Douglas Corp.*, 411 U.S. at 802-03; *Anderson*, 406 F.3d at 268.

In his Opposition, Plaintiff claims that he was targeted, harassed, and discriminated against in the workplace and that he was terminated after complaining about such conduct. Opp'n at 1-13, ECF No. 75. Although Plaintiff disagrees with the basis for his termination and believes that he was the victim of Title VII retaliation, Plaintiff's suspicions of ill intent are insufficient to create a genuine issue of material fact regarding pretext. When analyzing the issue of pretext, it is the "perception of the decision maker which is relevant, not the self-assessment of the plaintiff."

Fry v. Rand Constr. Corp., 964 F.3d 239, 248 (4th Cir. 2020) (quoting *DeJarnette v. Corning Inc.*, 133 F.3d 293, 299 (4th Cir. 1998)); see *Lyons v. City of Alexandria*, 35 F.4th 285, 288 (4th Cir. 2022) (explaining that "a plaintiff's own assertions of discrimination in and of themselves are insufficient to counter substantial evidence of legitimate nondiscriminatory reasons for an adverse employment action"). Further, as the United States Court of Appeals for the Fourth Circuit has explained, "it is not the courts' place to determine whether [an employer's] assessment of [an employee's] performance issues was 'wise, fair, or even correct, so long as it truly was the reason for [the] termination.'" *Fry*, 964 F.3d at 249 (quoting *Laing v. Federal Express Corp.*, 703 F.3d 713, 722 (4th Cir. 2013)); *see Bazemore v. Best Buy*, 957 F.3d 195, 202 (4th Cir. 2020) (stating that the court does not "sit as a kind of super-personnel department weighing the prudence of employment decisions"). Upon review of the parties' briefs and the record evidence, the Court finds that Plaintiff has not provided evidence that would allow a reasonable fact-finder to conclude that Defendant's stated reasons for Plaintiff's termination are pretext for retaliation.

In summary, the Court finds that (i) Plaintiff has not established that he engaged in protected activity, as defined by Title VII; (ii) Defendant has articulated legitimate, non-retaliatory reasons for its decision to terminate Plaintiff's employment; (iii) Defendant's stated reasons are supported by ample evidence; and (iv) Plaintiff has failed to provide evidence that would allow a reasonable fact-finder to conclude that Defendant's stated reasons are pretextual. As a result of these findings, the Court concludes that Plaintiff has not demonstrated the existence of a genuine dispute of material fact as to his Title VII retaliation claim. Accordingly, Defendant's Motion for Summary Judgment, ECF No. 69, is **GRANTED** as to Plaintiff's Title VII retaliation claim.

2. Title VII: Discriminatory Termination

It is unclear whether Plaintiff intends to assert a separate Title VII claim against Defendant for discriminatory termination. However, out of an abundance of caution, the Court will address such potential claim.

Title VII makes it unlawful for an employer "to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a)(1). To proceed on a discriminatory termination claim, Plaintiff must first establish a *prima face* case of discrimination, showing that (i) he is a member of a protected class; (ii) his job performance was satisfactory at the time of his termination; (iii) his employment was terminated; and (iv) others outside of his protected class were treated more favorably. *Haynes v. Waste Connections, Inc.*, 922 F.3d 219, 223 (4th Cir. 2019). If Plaintiff establishes a *prima facie* case of discriminatory termination, the burden shifts to Defendant to provide a legitimate, non-discriminatory reason for the termination, and if Defendant does so, Plaintiff bears the ultimate burden of establishing pretext. *Id.*

As discussed above, the Court has already determined that Defendant has established legitimate reasons for Plaintiff's termination and that Plaintiff has not shown that such reasons are pretextual. *See supra* Part II.C.1.b. Therefore, to the extent that Plaintiff intended to assert a separate Title VII discriminatory termination claim against Defendant, the Court finds that such claim would necessarily fail. Accordingly, Defendant's Motion for Summary Judgment, ECF No. 69, is **GRANTED** as to any intended Title VII discriminatory termination claim.

3. Title VII: Hostile Work Environment

To establish a *prima facie* case of a Title VII hostile work environment claim, Plaintiff must show: (i) unwelcome conduct; (ii) based on a protected characteristic; (iii) which is sufficiently severe or pervasive to alter the conditions of employment and create an abusive work environment; and (iv) which is imputable to the employer. *Guessous*, 828 F.3d at 221; *Baqir v. Principi*, 434 F.3d 733, 745-46 (4th Cir. 2006); *Monk v. Potter*, 723 F. Supp. 2d 860, 880 (E.D. Va. 2010).

To satisfy the severe or pervasive requirement, Plaintiff "must clear a high bar." *EEOC v. Cent. Wholesalers, Inc.*, 573 F.3d 167, 175 (4th Cir. 2009). As the Fourth Circuit has explained, "isolated incidents (unless extremely serious) will not amount to discriminatory changes in the terms and conditions of employment." *Guessous*, 828 F.3d at 227 (quoting *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1998)). The Fourth Circuit has further explained:

> Workplaces are not always harmonious locales, and even incidents that would objectively give rise to bruised or wounded feelings will not on that account satisfy the severe or pervasive standard. Some rolling with the punches is a fact of workplace life. Thus, complaints premised on nothing more than "rude treatment by [coworkers]," . . . "callous behavior by [one's] superiors," . . . or "a routine difference of opinion and personality conflict with [one's] supervisor," . . . are not actionable under Title VII.

EEOC v. Sunbelt Rentals, Inc., 521 F.3d 306, 315-16 (4th Cir. 2008) (citations omitted). To reach the level of severity or pervasiveness necessary for his *prima facie* case, Plaintiff must show that "the environment was pervaded with discriminatory conduct 'aimed to humiliate, ridicule, or intimidate,' thereby creating an abusive atmosphere." *Cent. Wholesalers, Inc.*, 573 F.3d at 175. In determining whether the harassment is sufficiently severe or pervasive, courts will consider "(1) the frequency of the discriminatory conduct; (2) its severity; (3) whether it is physically threatening or humiliating, or a mere offensive utterance; and (4) whether it unreasonably interferes with an employee's work performance." *Jones v. Tyson Foods, Inc.*, 378 F. Supp. 2d

705, 712-13 (E.D. Va. 2004). Notably, this element "has both subjective and objective components." *Cent. Wholesalers, Inc.*, 573 F.3d at 175. Plaintiff must establish that he "did perceive, and a reasonable person would perceive, the environment to be abusive or hostile." *Id.*

Defendant argues that summary judgment is warranted on Plaintiff's Title VII hostile work environment claim because Plaintiff has failed to establish the existence of "a severe or pervasive discriminatory environment" in the workplace. Mem. Supp. Mot. Summ. J. at 27. Specifically, Defendant argues: "Plaintiff fails to allege any specific conduct or comment directed at him because of his gender or race and testified that no such conduct or comments occurred. General complaints of rude treatment are insufficient to support a hostile environment claim." *Id.* at 27-28. Defendant also argues that there is no basis to impute liability to Defendant on any hostile work environment claim. *Id.* at 28. Defendant argues that (i) "Plaintiff never complained to Human Resources about gender or race discrimination prior to his termination"; and (ii) to the extent that Plaintiff's claim is based on his general feelings of being "targeted" and "harassed", which Plaintiff raised in his December 2, 2017 response to the Individual Supervision Log, such issues were addressed by Dr. Hood and Plaintiff "dismissed any need to follow up." *Id.* (citing Email at 1-2, ECF No. 70-9).

Although the Fourth Circuit has stated that "whether harassment was sufficiently severe or pervasive is quintessentially a question of fact," it also instructs that "summary judgment is appropriate in cases where the facts are clearly insufficient to satisfy the [severe or pervasive] standard." *Walker v. Mod-U-Kraf Homes, LLC*, 775 F.3d 202, 208 (4th Cir. 2014). Here, the Court finds that the record evidence is clearly insufficient to establish that Plaintiff was subjected to unwelcome conduct, based on a protected characteristic, which was so severe or pervasive that it altered the conditions of his employment and created an abusive work environment. *See*

Guessous, 828 F.3d at 221; *Baqir*, 434 F.3d at 745-46. Therefore, the Court concludes that Plaintiff has not demonstrated the existence of a genuine dispute of material fact as to his Title VII hostile work environment claim. Accordingly, Defendant's Motion for Summary Judgment, ECF No. 69, is **GRANTED** as to Plaintiff's Title VII hostile work environment claim.

4. State Law FAWBPA Claim

This action was brought before the Court based on federal question jurisdiction. Compl. at 1-15. Diversity jurisdiction does not apply to this action because there is no diversity between the parties. *Id.* at 1-2; *see* 28 U.S.C. § 1332.

As set forth above, the Court has dismissed all of the federal claims asserted by Plaintiff in this action, leaving only Plaintiff's state law claim under the FAWBPA. Although the Court may exercise supplemental jurisdiction over any remaining state law claims after all federal claims have been dismissed, the decision to do so "rests within the sole discretion of the Court." *Jones*, 378 F. Supp. 2d at 710 (citing 28 U.S.C. § 1367(c)(3)); *see Jordahl v. Democratic Party*, 122 F.3d 192, 203 (4th Cir. 1997). "[T]he doctrine of supplemental jurisdiction is a doctrine of flexibility, designed to allow courts to deal with cases involving pendent claims in the manner that most sensibly accommodates a range of concerns and values." *Shanaghan v. Cahill*, 58 F.3d 106, 110 (4th Cir. 1995). In determining whether to exercise supplemental jurisdiction, the Court analyzes "convenience and fairness to the parties, the existence of any underlying issues of federal policy, comity and considerations of judicial economy." *Id.* Based on an analysis of the above factors, the Court declines to exercise supplemental jurisdiction over Plaintiff's state law FAWBPA claim. Accordingly, the Court hereby **DISMISSES** Plaintiff's state law FAWBPA claim without prejudice.

III. Plaintiff's Motions for Judgment on the Pleadings

As noted above, Plaintiff filed a First Motion for Judgment on the Pleadings, ECF No. 75, and a Second Motion for Judgment on the Pleadings, ECF No. 84. Although Plaintiff does not identify the specific legal basis for his motions, the Court construes Plaintiff's motions as being filed pursuant to Federal Rule 12(c). *See* Fed. R. Civ. P. 12(c) (stating that "[a]fter the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings").

Courts have explained that a motion for judgment on the pleadings should only be granted if "the movant has clearly established that no material issue of fact remains and that the movant is entitled to judgment as a matter of law." *Deutsche Bank Nat'l Trust Co. v. Fegely*, 767 F. App'x 582, 583 (4th Cir. 2019) (citations omitted); *see Shahabuddin v. JTH Tax, Inc.*, No. 2:18cv16, 2018 U.S. Dist. LEXIS 241360, at *4 (E.D. Va. July 31, 2018). As set forth above, the Court has determined that Defendant, not Plaintiff, is entitled to summary judgment on Plaintiff's Title VII claims, and the Court declines to exercise supplemental jurisdiction over Plaintiff's state law claim. *See supra* Part II. Under these circumstances, Plaintiff's motions for judgment on the pleadings necessarily fail. Accordingly, Plaintiff's First Motion for Judgment on the Pleadings, ECF No. 75, and Plaintiff's Second Motion for Judgment on the Pleadings, ECF No. 84, are **DENIED.**

IV. Other Remaining Motions

On April 13, 2022, Plaintiff filed a Motion to Quash and Extend Expert Witness Deadline, in which Plaintiff seeks to (i) quash a subpoena issued by Defendant's counsel for Plaintiff's employment-related records; and (ii) extend Plaintiff's deadline to identify expert witnesses. Mot. Quash & Extend Expert Witness Deadline, ECF No. 67. On May 19, 2022, Defendant filed a Motion to Strike, in which Defendant asks the Court to strike Plaintiff's Rule 26 Pretrial

Disclosures. Mot. Strike, ECF No. 80; *see* Rule 26 Pretrial Disclosures, ECF No. 78. On June 3, 2022, Plaintiff filed a Motion to Compel, in which Plaintiff asks the Court to compel Defendant to provide a "working CD" of a grievance hearing and other documents to be included in the parties' proposed final pretrial order. Mot. Compel at 2, 6-9, ECF No. 83.

Because the Court has determined that summary judgment is warranted in Defendant's favor on Plaintiff's Title VII claims, and has declined to exercise supplemental jurisdiction over Plaintiff's state law claim, this action will be dismissed in its entirety. Thus, the relief requested in the parties' above-referenced motions has been rendered moot. Accordingly, Plaintiff's Motion to Quash and Extend Expert Witness Deadline, ECF No. 67, is **DISMISSED as moot**; Defendant's Motion to Strike, ECF No. 80, are **DISMISSED as moot**; and Plaintiff's Motion to Compel, ECF No. 83, is **DISMISSED as moot.**[8]

V. Conclusion

For the reasons set forth above, Defendant's Motion for Summary Judgment, ECF No. 69, is **GRANTED** as to Plaintiff's Title VII claims, and such claims are **DISMISSED** with prejudice. The Court declines to exercise supplemental jurisdiction over Plaintiff's state law FAWBPA claim. Accordingly, Plaintiff's state law FAWBPA claim is **DISMISSED** without prejudice. Plaintiff's First Motion for Judgment on the Pleadings, ECF No. 75, is **DENIED**; Plaintiff's Second Motion for Judgment on the Pleadings, ECF No. 84, is **DENIED**; Plaintiff's Motion to Quash and Extend

[8] To the extent that Plaintiff intended to compel the information identified in his Motion to Compel for purposes other than the preparation of the parties' proposed final pretrial order, the Court finds that such request is unwarranted. First, Plaintiff indicates in his Motion to Compel that Defendant's counsel "has stated that he is sending a corrected or working CD" to Plaintiff. Mot. Compel at 2, ECF No. 83. Thus, it appears that there is no active dispute between the parties with respect to the CD. With respect to the other documents referenced in Plaintiff's Motion to Compel, i.e., "the eye witnesses' contact information" and a February 24, 2018 email, the Court finds that Plaintiff has not adequately established that he is entitled to his requested relief.

Expert Witness Deadline, ECF No. 67, is **DISMISSED as moot**; Defendant's Motion to Strike, ECF No. 80, is **DISMISSED as moot**; Plaintiff's Motion to Compel, ECF No. 83, is **DISMISSED as moot**; and this civil action is **DISMISSED**.

Plaintiff may appeal this Dismissal Order by forwarding a written notice of appeal to the Clerk of the United States District Court, Newport News Division, 2400 West Avenue, Newport News, Virginia 23607. The written notice must be received by the Clerk within thirty days of the date of entry of this Dismissal Order.

The Clerk is **DIRECTED** to send a copy of this Dismissal Order to Plaintiff and counsel for Defendant.

IT IS SO **ORDERED**.

Raymond A. Jackson
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
August 31, 2022

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

REV. CARL A. MELVIN,

Plaintiff(s),

Case No. 4:19cv69

v.

HAMPTON-NEWPORT NEWS COMMUNITY SERVICES BOARD,

Defendant(s).

JUDGMENT IN A CIVIL CASE

Decision by the Court. This action came for decision before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that Defendant's Motion for Summary Judgment, ECF No. 69, is GRANTED as to Plaintiff's Title VII claims, and such claims are DISMISSED with prejudice. The Court declines to exercise supplemental jurisdiction over Plaintiff's state law FAWBPA claim. Plaintiff's state law FAWBPA claim is DISMISSED without prejudice. Plaintiff's First Motion for Judgment on the Pleadings, ECF No. 75, is DENIED; Plaintiff's Second Motion for Judgment on the Pleadings, ECF No. 84, is DENIED; Plaintiff's Motion to Quash and Extend Expert Witness Deadline, ECF No. 67, is DISMISSED as moot; Defendant's Motion to Strike, ECF No. 80, is DISMISSED as moot; Plaintiff's Motion to Compel, ECF No. 83, is DISMISSED as moot; and this civil action is DISMISSED.

DATED: September 1, 2022

FERNANDO GALINDO, Clerk

By /s/
E. Price, Deputy Clerk