APPENDIX A

Order DN 59 from the District Court which granted Anderson's summary DN 48 and denied Qiu's summary DN 45

Filed: 08/28/23 by Judge Gregory F. Van Tatenhove

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION FRANKFORT

WEI QIU, Plaintiff,
v.
BOARD OF EDUCATION OF ANDERSON COUNTY, KENTUCKY, Defendant.
Civil No. 3:21-cv-00027-GFVT

MEMORANDUM OPINION & ORDER
*** *** *** ***

This matter is before the Court on multiple pending motions. Ms. Qiu, a Chinese woman, brought this action alleging that Anderson County High School engaged in race, color, and national origin discrimination by not hiring her for a chemistry teacher position. [See R. 31 at 5-6.] Ms. Qiu filed two Motions for Summary Judgment and Anderson County filed a CrossMotion for Summary Judgment. [R. 45; R. 46; R. 48.] Ms. Qiu also filed a Motion to "prove the defendant's bad faith" and a Motion to Sanction the Defendant's counsel. [R. 42; R. 53.] Finally, the parties filed a Joint Motion to Stay their pre-trial deadlines. [R. 58.] For the reasons that follow, Anderson County's Motion for Summary Judgment [R. 48] is GRANTED and Ms. Qiu's

Motions for Summary Judgment [R. 45; R. 46] are DENIED. The Court also DENIES Ms. Qiu's Motions to Prove the Defendant's Bad Faith [R. 42] and for Sanctions [R. 53] and DENIES AS MOOT the Joint Motion to Stay Deadlines [R. 58].

I

Ms. Qiu is a "neutralized [sic] US citizen with Chinese origin speaking accent English." [R. 31 at 5.] She applied for a chemistry teacher position at Anderson County High School in April of 2020. *Id.* She alleges that she was "very well qualified for the position." *Id.* The school interviewed her for the position, after which she emailed Mr. White, the assistant principal, "every week to ask about the hiring decision." *Id.* In her emails, she "tried to convince him to hire [her] with new evidence." *Id.* "His answer was always that they were still searching for a new candidate." *Id.*

The school hired Ms. Sutherland, a white candidate, for the position. *Id.* She was hired on the day she was interviewed, May 29. Id. Ms. Qiu claims that Mr. White "held [her] to wait to May 29, 2020 on which he found a white [candidate] available to him." Id. Ms. Qiu believes that Anderson County hired Ms. Sutherland because, unlike Ms. Qiu, she is a "white speaking perfect English." *Id.* Ms. Qiu brings this action alleging that Anderson County treated her

differently than the white candidate because of her Chinese accent, arising to race, color, and national origin discrimination. *Id.*

II

A

Summary judgment is appropriate when the pleadings, discovery materials, and other documents in the record show "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); *Celotex Corp. v. Catrett,* 477 U.S. 317, 323-25 (1986). A genuine dispute exists "if the evidence shows 'that a reasonable jury could return a verdict for the nonmoving party.'" *Olinger v. Corp. of the Pres. of the Church,* 521 F. Supp. 2d 577, 582 (E.D. Ky. 2007) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)). The moving party has the initial burden of demonstrating the basis for their motion and identifying the parts of the record that establish the absence of a genuine issue of material fact. *Chao v. Hall Holding Co., Inc.,* 285 F.3d 415, 424 (6th Cir. 2002). The movant may satisfy their burden by showing "that there is an absence of evidence to support the non-moving party's case." *Celotex Corp.,* 477 U.S. at 325. Once the movant satisfies this burden, the non-moving party must go beyond the pleadings and come forward with specific facts demonstrating there is a genuine issue in dispute.

Hall Holding, 285 F.3d at 424 (citing *Celotex Corp.*, 477 U.S. at 324).

The Court must then determine "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." *Booker v. Brown & Williamson Tobacco Co.*, 879 F.2d 1304, 1310 (6th Cir. 1989) (quoting Anderson, 477 U.S. at 251-52). In doing so, the Court must review the facts and draw all reasonable inferences in favor of the non-moving party. *Logan v. Denny's, Inc.*, 259 F.3d 558, 566 (6th Cir. 2001).

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating "against any ndividual 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). A plaintiff can prove her claims under Title VII by either direct or circumstantial evidence of intentional discrimination. *Ondricko v. MGM Grand Detroit, LLC*, 689 F.3d 642, 648–49 (6th Cir. 2012). "Direct evidence of discrimination is that evidence which, if believed, requires the conclusion that unlawful discrimination was at least a motivating factor in the employer's actions." *Id.* (quoting *Wexler v. White's Fine Furniture, Inc.*, 317 F.3d 564, 570 (6th Cir. 2003));

see also *Rowan v. Lockheed Martin Energy Sys., Inc.*, 360 F.3d 544, 548 (6th Cir. 2004) (direct evidence "proves the existence of a fact without requiring any inferences"). On the other hand, circumstantial evidence "is proof that does not on its face establish discriminatory animus, but does allow a fact finder to draw a reasonable inference that discrimination occurred." *Wexler*, 317 F.3d at 570.

Ms. Qiu only offers circumstantial evidence of discrimination. She claims that Anderson County did not hire her "based on [her] national origin and race." [R. 31 at 5.] Her proof is that she was made to wait to hear about the hiring decision until Anderson County found a white candidate. Id. Ms. Qiu claims that hiring a white English-speaking candidate over her is direct evidence of discrimination. [R. 46 at 2.] It is not. Rather, it is circumstantial evidence because it relies on an inference: Ms. Qiu has an accent and a white candidate was hired, so Anderson County did not hire Ms. Qiu because of her race, color, or national origin.

The McDonnell Douglas burden shifting framework applies to employment discrimination claims based on circumstantial evidence. *Geiger v. Tower Automotive*, 579 F.3d 614, 621 (6th Cir. 2009). The plaintiff must first establish a prime facie case of discrimination. *Schoonmaker v. Spartan Graphics*

Leasing, LLC, 595 F.3d 261, 264 (6th Cir. 2010) (quoting *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 148 (2000)). If successful, the burden then shifts to the defendant to "articulate a legitimate nondiscriminatory reason for the adverse employment action." *Id.* (citation omitted). Once this showing has been made, the burden of production shifts back to the plaintiff who must show that the employer's explanation was merely pretext for intentional discrimination. *Id.* (citation omitted). Although the burden of production shifts throughout the analysis, the burden of persuasion remains on the plaintiff to "demonstrate that [the protected characteristic] was the 'but-for' cause of their employer's adverse action." *Id.* (quoting *Geiger*, 579 F.3d at 620) (internal quotations marks omitted).

1

Under the McDonnell-Douglas framework, Ms. Qiu must first establish a prima facie case of race or national origin discrimination by showing that: "(1) she was a member of a protected class, (2) she applied for and was qualified for the position . . ., (3) she was considered for and denied the position, and (4) she was rejected in favor of another person with similar qualifications who was not a member of her protected class." *Betkerur v. Aultman Hosp. Ass'n*, 78 F.3d 1079, 1095 (6th Cir. 1996) (citing *Brown v. Tennessee*, 693 F.2d 600, 603 (6th Cir. 1982)). Anderson County

assumes for the sake of its motion that Ms. Qiu can establish the first three elements of the prima facie showing. [R. 48 at 10.] It disputes the fourth element: that Ms. Qiu was treated differently than a similarly-situated, non-minority candidate. Id. Specifically, it argues that Ms. Sutherland, who was hired for the position, was more qualified than Ms. Qiu. *Id.* Ms. Sutherland has two decades of experience with Anderson County, "including having taught chemistry concepts as part of various science courses for at least ten (10) years." *Id.*

Even assuming that Ms. Qiu and Ms. Sutherland were similarly situated and Ms. Qiu could establish a prima facie case, the burden would then shift to Anderson County to produce a legitimate non-discriminatory reason for not hiring her. *Schoonmaker,* 595 F.3d at 264. "The defendant need not persuade the court that it was actually motivated by the proffered reasons." *Tex. Dep't of Cmty. Affairs v. Burdine,* 450 U.S. 248, 254 (1981). It need only set forth "through the introduction of admissible evidence, the reasons for the plaintiff's rejection." *Id.*

Anderson County satisfies this burden. It submitted an affidavit from Associate Principal White explaining his reasoning for selecting Ms. Sutherland over Ms. Qiu. [R. 48-1.] He explains that Ms. Sutherland was selected because the interviewers

"had an existing collegial relationship" with her and knew of her "reputation as an exceptional instructor." *Id.* at 2. Ms. Sutherland had previously taught at Anderson County for over twenty years and was once named teacher of the year. *Id.* This reasoning satisfies the burden of producing a legitimate nondiscriminatory reason for not hiring Ms. Qiu. See *White v. Metro. Housing Auth.*, 429 F.3d 232, 245 (6th Cir. 2005). Accordingly, the burden shifts to Ms. Qiu to show that Anderson County's non-discriminatory reasons are mere pretext. *Id.*

2

A plaintiff can show pretext: "(1) by showing that the proffered reason had no basis in fact; (2) by showing that the proffered reason did not actually motivate the employer's conduct, or (3) by showing that the proffered reason was insufficient to warrant the challenged conduct." *White*, 429 F.3d at 245 (citing *Wexler*, 317 F.3d at 576). Ms. Qiu argues that Anderson County's proffered reasons for hiring Ms. Sutherland are pretextual. Ms. Qiu believes that Ms. Sutherland was not certified to teach chemistry, has no education in chemistry, and has no experience in teaching chemistry. [R. 45 at 2.] She concludes that Ms. Sutherland "was not qualified to teach chemistry" and "is actually ignorant of chemistry." *Id.* at 3. Ms. Qiu believes that Ms. Sutherland was hired "because she is an English speaker White/Caucasian, even

though Sutherland was not capable to do the job which was teaching chemistry." *Id.* Ms. Qiu claims that she, in contrast, is qualified because she is certified to teach chemistry and presented references, evaluations, an award, and test scores. *Id.* She concludes that she is "a chemistry teacher of excellent quality." *Id.* Accordingly, she believes that Anderson County "rejected [her] because [it] discriminated against her for she is an accented Chinese." *Id.*

Anderson County explains that it saw Ms. Qiu's experience at numerous schools in a short time period as a red flag. [R. 48-1 at 2.] Nevertheless, the school offered her an interview. *Id.* Her interview responses "lacked specificity and clarity" and "raised concerns . . . in relation to anticipated student reaction to her described teaching methodology as well as her description of her interactions with peers and supervisors." *Id.* Mr. White was also concerned with Ms. Qiu's "grasp of professional boundaries" because she twice attempted to respond to his call late at night. *Id.* On the other hand, the hiring committee knew Ms. Sutherland because she had previously taught at the school and had been named teacher of the year. *Id.* They knew that she wanted to return to teaching and had "a reputation as an exceptional instructor." *Id.*

Anderson County provides reasonable explanations for its choice to hire Ms. Sutherland over Ms. Qiu. [R. 48-1.] Ms. Qiu may disagree with that choice, but she has no evidence that Anderson County's conclusion that Ms. Sutherland was more qualified is untrue, not its true motivation, or insufficient to not hire her. *White,* 429 F.3d at 245. Her only specific argument about their disparate qualifications is that Ms. Sutherland does not have a chemistry teaching certificate. [See R. 45 at 2.] Ms. Sutherland stated in her affidavit that she was familiar with the chemistry curriculum as the science department chair and had previously taught chemistry concepts within numerous other science courses over the course of her twenty-two-year teaching career. [R. 48-2 at 1.] Mr. Drury, who is responsible for ensuring that teachers are properly certified, stated in his affidavit that Ms. Sutherland "is properly certified for each course she has taught," including her chemistry courses. [R. 48-3 at 1.]

Ms. Qiu cites no authority for her proposition that a teacher must be certified in the subject which they are teaching in order to be qualified. She relies on Ky. Rev. Stat. 160.020(1)(A), which requires a teacher to "hold a certificate of legal qualification for the position." That statute does not identify which certifications are required to teach which courses.

Ms. Qiu's further support, a Certification Resource Guide, is also unsupportive. [R. 49-1 at 2-3.] But that guide "is not legally binding and is not a statement of law regarding areas of certification." [R. 52 at 2-3 (citing Certification Reference Guide, Education Professional Standards Board, https://education.ky.gov/comm/Documents/Certification%20Reference%20Guide-2011.pdf).] There is insufficient evidence to show that a chemistry certificate is required to teach chemistry. Accordingly, there is no genuine issue over whether Ms. Sutherland was qualified for the position.

Ms. Qiu disagrees with Anderson County's assessment about her and Ms. Sutherland's applications. [See R. 45.] This disagreement is insufficient to establish pretext without some evidence of discriminatory intent. *Wrenn v. Gould,* 808 F.2d 808 F.2d 493, 502 (6th Cir. 1987). "Title VII does not diminish lawful traditional management prerogatives in choosing among qualified candidates." Id. (citing United Steelworkers of *Am. v. Weber,* 443 U.S. 193, 207 (1979)). "So long as its reasons are not discriminatory, an employer is free to choose among qualified candidates." *Id.* (citations omitted). The employer's motivation is the focus of the inquiry, not "not the applicant's perceptions, or even an objective assessment, of what qualifications are required for a particular position." *Id.*

Ultimately, Anderson County claims that it hired Ms. Sutherland because she was more qualified. [R. 48 at 11-12.] It provides reasonable explanations for that perspective. *Id.* at 15-16. The mere facts that Ms. Qiu has a Chinese accent and a white candidate was hired do not establish that Anderson County's explanations are pretext. *Peters*, 285 F.3d at 470. If Ms. Qiu's position was correct, any individual who is a member of a protected class could bring a successful employment discrimination claim so long as the employer was aware of that protected class. Title VII does not require as such. Anderson County is entitled to summary judgment.

B

The Court will also deny Ms. Qiu's Motions to "prove defendant's bad faith to abuse civil procedure" and to sanction counsel for Anderson County. [R. 42; R. 53.] Her first motion allegedly "proves defendant lied in its Answer to the amended complaint." [R. 42 at 2.] She asks the court to "order this case to cease." Id. at 5. Her second motion asks the Court to sanction defense counsel for filing affidavits as exhibits to Anderson County's cross-motion for summary judgment "knowing there were material lies." [R. 53 at 1.] She primarily takes issue with Blake Drury's affidavit, claiming that he "perjured" himself by stating that Ms. Sutherland was qualified to teach

chemistry. *Id.* at 2-4. She asks the Court to "refer Drury to Kentucky Attorney General to prosecute for his committing the Class D felony," and "take off Defendant's Cross Motion for Summary Judgment." *Id.* at 5.

Neither motion cites legal authority for her requested relief. The Court has reminded Ms. Qiu numerous times that her motions "must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it." [LR 7.1(a); See R. 4; R. 30 at 8.] Nevertheless, neither of Ms. Qiu's motions warrant any form of relief.

Ms. Qiu claims that Anderson County lied in paragraphs 24, 25, and 26 of its answer to the amended complaint. [R. 42 at 2-4.] Paragraph 24 denied her allegation that she was licensed with two-and-a-half years of experience and "very well qualified" because it "lacks sufficient information." [R. 34 at 5.] A denial based on insufficient information is not a "lie." Second, Ms. Qiu admits that she made multiple late-night calls to Mr. White, so paragraph 25's reference to the calls is not a lie. [R. 42 at 3; R. 34 at 5.] She explains her view of the phone calls, but differing perspectives do not constitute a bad faith misrepresentation. Finally, paragraph 26's response that Ms. Sutherland was highly qualified is a

subjective assessment, not a lie. [R. 34 at 6.] Ms. Qiu's motion to prove the defendant's bad faith shows that she disagrees with Anderson County's version of events. [See R. 42 at 3.] But different perspectives on the events do not make Anderson County's responses "lies" or establish bad faith. Accordingly, she is entitled to no relief based on the Defendant's answer to her amended complaint.

Ms. Qiu's Motion to Sanction Mr. Chenoweth is similarly unconvincing. She insists that Blake Drury's affidavit, submitted as an exhibit by Mr. Chenoweth, constitutes perjury. [R. 53 at 2-4.] Mr. Drury, whose responsibility is to prepare a report confirming that instructors are qualified to teach their courses, confirmed that "Ms. Sutherland is properly certified for each course she has taught." [R. 48-3 at 1.] Ms. Qiu believes that this is perjurious because Ms. Sutherland taught chemistry without a chemistry certificate. [R. 53 at 3.] As explained above, the statute to which she cites, Ky. Rev. Stat. 160.020(1)(A), only requires that a teacher hold "a certificate of legal qualifications for the position." Her additional referenced authority, the Certification Resource Guide, "is not legally binding and is not a statement of law regarding areas of certification." [R. 52 at 2-3 (citing Certification Reference Guide, Education Professional Standards Board, https://education.ky.gov/comm/Documents/

Certification%20Reference%20Guide-2011.pdf).] Ms. Qiu does not establish that Mr. Drury's statement was false, let alone perjurious. Accordingly, there are no grounds to sanction Mr. Chenoweth.

III

Accordingly, and the Court being sufficiently advised, it is hereby ORDERED as follows:

1. The Defendant's Motion for Summary Judgment [R. 48] is GRANTED;
2. The Plaintiff's Motions for Summary Judgment [R. 45; R. 46] are DENIED;
3. The Plaintiff's Motion to Prove Defendant's Bad Faith is DENIED;
4. The Plaintiff's Motion for Sanctions is DENIED;
5. The Joint Motion to Stay [R. 58] is DENIED AS MOOT; and,
6. An appropriate judgment will be entered contemporaneously herewith.

This the 28th day of August, 2023.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY

Gregory F. Van Tatenhove
United States District Judge

APPENDIX B

Order D 18 from the Appeal Court which affirmed Order DN 59

No. 23-5888 Filed on Apr 3, 2024
NOT RECOMMENDED FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

WEI QIU,
Plaintiff-Appellant,
v.
ANDERSON COUNTY, KY BOARD OF EDUCATION,
Defendant-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY

ORDER

Before: COLE, CLAY, and KETHLEDGE, Circuit Judges.

Wei Qiu, proceeding pro se, appeals the district court's judgment in favor of the Anderson County, Kentucky Board of Education ACBOE) on her employment-discrimination claims. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. See Fed. R. App. P. 34(a). For the following reasons, we affirm.

In 2020, Qiu, a Chinese woman, applied for a chemistry teacher position at Anderson County High School (ACHS). ACHS interviewed Qiu on May 8, 2020. Following the interview, Qiu emailed the associate principal, Josh White, weekly about the position and provided "new evidence" supporting her candidacy. He responded that they were "still searching for a new candidate." ACHS then interviewed Sharon Sutherland, a white woman, on May 29, 2020, and hired her to the position on the same day.

Qiu filed an initial charge of discrimination with the Equal Employment Opportunity Commission, which granted her a right to sue in May 2021. Qiu then sued ACBOE for violating Qiu originally sued ACHS but amended the complaint to name ACBOE as the only defendant. Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-5 to 2000e-17, alleging that ACHS kept the position open until it found a white person to fill it and thus that ACBOE discriminated against her based on her race and national origin. In considering the parties' cross-motions for summary judgment, the district court granted ACBOE's motion and denied Qiu's. The court reasoned that ACBOE stated that it did not hire Qiu because Sutherland was more qualified, and Qiu failed to establish that this reason was pretextual. The district court then denied Qiu's motions to prove ACBOE's bad faith and for sanctions.

On appeal, Qiu argues that her claims should have survived summary judgment because ACBOE hired Sutherland, an allegedly unqualified candidate, over her because Sutherland is a white, native-English speaker. Qiu also argues that the district court should have sanctioned ACBOE because it lied in its filings and that the district court is corrupt. Finally, she moves for a stay under Federal Rule of Appellate Procedure 8.

We review de novo the district court's order granting summary judgment. See *Smith v. City of Troy*, 874 F.3d 938, 943 (6th Cir. 2017) (per curiam). 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). A court reviewing a summary-judgment motion must draw all reasonable inferences in favor of the nonmoving party. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986).

Under Title VII, it is unlawful "for an employer . . . 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." § 2000e-2(a)(1). Where an employment discrimination claim relies on circumstantial evidence, the plaintiff has the initial burden of establishing a prima facie case of discrimination. *See McDonnell Douglas Corp. v.*

Green, 411 U.S. 792, 800-03 (1973). Once the plaintiff establishes a prima facie case, the burden shifts to the employer to articulate a legitimate, non-discriminatory reason for the adverse action taken against the employee. *Id.* at 802. Thereafter, the burden shifts to the plaintiff to establish that the employer's stated reason was a pretext for discrimination. *Id.* at 804.

We assume, without deciding, that Qiu has made a prima facie case for discrimination. Thus, we ask whether ACBOE "articulate[d] a legitimate, non-discriminatory reason" for not hiring Qiu. *Lefevers v. GAF Fiberglass Corp.*, 667 F.3d 721, 725 (6th Cir. 2012). ACBOE met its burden by stating that it hired Sutherland because she was more qualified than the other candidates. Additionally, White stated that the hiring committee had concerns about hiring Qiu based on her answers during her interview and her difficulty understanding professional boundaries. The hiring committee also considered it a red flag that Qiu had taught for short periods of time at multiple schools. Accordingly, the burden shifted to Qiu to "prove by a preponderance of the evidence that the legitimate reasons offered by the defendant were not its true reasons, but were a pretext for discrimination." *Levine v. DeJoy*, 64 F.4th 789, 798 (6th Cir. 2023) (quoting *Tex. Dep't of Cmty. Affairs v. Burdine*, 450 U.S. 248, 253 (1981)).

"A plaintiff will usually demonstrate pretext by showing that the employer's stated reason for the adverse employment action either (1) has no basis in fact, (2) was not the actual reason, or (3) is insufficient to explain the employer's action." *Id.* (quoting *White v. Baxter Healthcare Corp.*, 533 F.3d 381, 393 (6th Cir. 2008)). Where, as here, 'qualifications evidence is all (or nearly all) that a plaintiff proffers to show pretext, the evidence must be of sufficient significance itself to call into question the honesty of the employer's explanation' for its hiring decision." *Id.* (quoting *Bender v. Hecht's Dep't Stores*, 455 F.3d 612, 627 (6th Cir. 2006)).

Qiu failed to meet her burden to produce evidence of pretext. The record shows that the committee had the following concerns about Qiu: she repeatedly called White after 10:30 pm without leaving a message; she had difficulties connecting to the virtual interview at a time when classes were conducted virtually; she was employed for short periods of time at multiple different schools; and, during her interview, her answers "lacked specificity and clarity." Qiu does not dispute these facts. Rather, she generally argues that White lied in his affidavit and that, despite possessing significant teaching experience, Sutherland was not certified to teach chemistry.

But the record shows that Sutherland was well qualified for the job and that she was undisputedly certified to *teach*. Qiu provides no admissible

evidence supporting her argument that Sutherland had to possess a chemistry certificate to teach a chemistry class. And despite being certified in biology rather than chemistry, Sutherland had additional qualifications for the job. She worked at ACHS from 1997 to 2019, and she was familiar with the chemistry curriculum because she taught physical science and served as the science department chair. Thus, the hiring committee had an "existing collegial relationship with Sutherland" and knew that she was an "exceptional instructor." Qiu's conclusory allegations that ACBOE lied about these qualifications and her "subjective view of her qualifications in relation to those of the other applicants, without more, cannot sustain a claim of discrimination." *Hedrick v. W. Rsrv. Care Sys.*, 355 F.3d 444, 462 (6th Cir. 2004). Simply put, Qiu's allegations and evidence regarding her qualifications and those of Sutherland are insufficient to call into question the honesty of ACBOE's non-discriminatory explanation. See *Levine*, 64 F.4th at 798.

Next, we review the denial of Federal Rule of Civil Procedure 11 sanctions for an abuse of discretion. *See Montell v. Diversified Clinical Servs., Inc.*, 757 F.3d 497, 510 (6th Cir. 2014). Rule 11 sanctions are warranted only where a party's conduct was "objectively unreasonable" or there was no "reasonable basis for" the claims. *Id.* Qiu has failed to show that ACBOE lied in any of its filings or that it

proceeded in an "objectively unreasonable" way, and, accordingly, the district court did not abuse its discretion in denying her requested relief. *Id.*

To the extent that Qiu argues that the district court impermissibly ruled in ACBOE's favor because it was corrupt and biased against her, she presents no evidence to support these allegations except the court's rulings. But "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v. United States,* 510 U.S. 540, 555 (1994). Nothing here warrants a departure from the usual rule.

Finally, we deny as moot Qiu's motion for a stay of the district court's judgment. See Fed. R. App. P. 8(a)(2)(A)(i) (explaining that a party may move a court of appeals for a stay where "moving first in the district court would be impracticable").

For these reasons, we AFFIRM the district court's judgment. Qiu's Rule 8 motion is DENIED as moot.

ENTERED BY ORDER OF THE COURT
Kelly L. Stephens, Clerk s/

APPENDIX C

Order D 21 from the circuit court which denied Qiu's petition to rehear on April 25, 2024.

No. 23-5888 FILED Filed on Apr 25, 2024
KELLY L.STEPHENS, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

WEI QIU, Plaintiff-Appellant,
v.
ANDERSON COUNTY, KY BOARD OF EDUCATION,
Defendant-Appellee.

ORDER

Before: COLE, CLAY, and KETHLEDGE, Circuit Judges.

Wei Qiu, a pro se litigant, has filed a petition for rehearing of this court's order of April 3, 2024, affirming the district court's dismissal of her complaint.

Upon consideration, this panel concludes that it did not misapprehend or overlook any point of law or fact when it issued its order. See Fed. R. App. P. 40(a)(2).

We therefore DENY the petition for rehearing.

ENTERED BY ORDER OF THE COURT
KELLY L.STEPHENS, Clerk s/