

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 23-2282

WILLIE EDWARD NICHOLS,

Plaintiff - Appellant,

v.

SECURITAS SECURITY SERVICES USA, INCORPORATED,

Defendant - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Mary G. Lewis, District Judge. (3:22-cv-01665-MGL)

Submitted: April 11, 2024

Decided: April 15, 2024

Before AGEE and QUATTLEBAUM, Circuit Judges, and FLOYD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Willie Edward Nichols, Appellant Pro Se. Ellison F. McCoy, Frank Sanders Stern, JACKSON LEWIS PC, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Willie Edward Nichols appeals the district court's judgment entered in Defendant's favor after the court adopted the magistrate judge's recommendations to grant Defendant's motions (1) to dismiss Nichols' claims of discrimination, in violation of the American with Disabilities Act (ADA), 42 U.S.C. §§ 12101 to 12213, and retaliation, in violation of the ADA, Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §§ 2000e to 2000e-17, and the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 to 634; and (2) for summary judgment on Nichols' claims of race and sex discrimination, in violation of Title VII, sex discrimination, in violation of the Equal Pay Act, 29 U.S.C. § 206(d), age discrimination, in violation of the ADEA, and race, sex, and age discrimination, in violation of the South Carolina Human Affairs Law. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's judgment. *Nichols v. Securitas Sec. Servs. USA, Inc.*, No. 3:22-cv-01665-MGL (D.S.C. Nov. 13, 2023). 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

Appendix F

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

WILLIE EDWARD NICHOLS,
Plaintiff,

vs.

SECURITAS SECURITY SERVICES USA,
INC.,
Defendant.

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CIVIL ACTION 3:22-1665-MGL-PJG

**ORDER ADOPTING THE REPORT AND RECOMMENDATION,
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT,
AND DENYING PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS**

Defendant Willie Edward Nichols (Nichols), who is representing himself, filed this job discrimination action against his former employer, Securitas Security Services USA, Inc. (Securitas). Nichols raises claims of race, sex, and age discrimination pursuant to Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §§ 2000e et seq.; the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 et seq.; and the South Carolina Human Affairs Law, S.C. Code Ann. §§ 1-13-10 et seq.; as well as a violation of the Equal Pay Act of 1963, 29 U.S.C. § 206(d).

The Court has already filed an Order adopting an earlier Report and Recommendation and granting Securitas's partial motion to dismiss Nichols's Americans with Disabilities Act (ADA) and retaliation claims.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Securitas's motion for summary judgment be granted and

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Nichols's motion for judgment on the pleadings be denied. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on August 17, 2023, Nichols filed his objections on September 1, 2023, and Securitas filed its reply on September 15, 2023. Thereafter, without seeking permission, Nichols filed a sur-reply on October 4, 2023. The Court has reviewed the objections and sur-reply, but holds them to be without merit. It will therefore enter judgment accordingly.

In Nichol's objections, he sets out several complaints, which the Court will briefly address here.

First, he complains of his "black male supervisor[']s . . . "unprofessional and disrespectful demeanor[.]" Objections at 2. He fails, however, to present any argument how this had anything to do with his lawsuit claims here. And, "the conduct of jerks, bullies, and persecutors is simply not actionable under Title VII unless they are acting because of the victim's [protected status]." *Wasek v. Arrow Energy Serv., Inc.*, 682 F.3d 463, 467 (6th Cir. 2012). Thus, the Court will overrule this objection.

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Second, he complains about the following:

the actions by the site supervisor was an attack on my ability to see if I would continue to work under extreme adverse working condition with my disability, forced to set on a round steel stool without back support or stand for an hour, forced a forty hour a week scheduled with no regard to my request for lesser hours, [due] to my failing

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health and the stress of working with a supervisor with a mean characteristic which by law on his behavior toward co-employee was in a discriminatory manner, especially when management were aware of his conduct with no course of action to correct him, the manner of knowing that I have a disability and not assist nor arranging any accommodation for a disabled co-worker employee me, then a refusal to grant a senior citizen request for lesser hours.

Objections at 2. Besides the complaints about his supervisor's alleged misbehavior, which the Court dealt with above, the rest of this objection appears to be directed mostly at his ADA claim. But, as the Court has already noted, it earlier dismissed that claim.

To the extent Nichol's claim regarding "a refusal to grant a senior citizen request for lesser hour[,]" *id.*, is directed at his age discrimination claim, he fails to allege the refusal was based on the fact he is a senior citizen. For all these reasons, this objection will be overruled, too.

Later in Nichols's objections, he states "I am a senior citizen with a disability" *Id.* But again, he fails to allege he was discriminated against because he is a senior citizen and, because the Court has dismissed his ADA claim, his disability claim is inconsequential. Thus the Court will overrule this objection, as well.

Also in Nichol's objections, he presents a mish mash of dates, pay rates, hours worked, and arguments about being laid off, vacation days, other benefits, and purportedly being "promised the position of supervisor." *Id.* 4-5. But, the Court is unable to say this information is helpful in establishing any of his claims in this lawsuit. Therefore, the Court will also overrule this objection.

Throughout Nichols's objections, in conclusory fashion, he employs the term "discriminatory" and "discrimination." But, each time, he fails to offer any support as to any actionable discrimination. Thus, the Court will overrule those objections, too.

The remainder of Nichols's objections are so lacking in merit as not to require any discussion. Hence, the Court will overrule those objections, as well.

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