**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 24-1115**

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VICTORIA LUNN JONES,

Plaintiff - Appellant,

v.

SYKES ENTERPRISES, INCORPORATED,

Defendant - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Columbia. Mary G. Lewis, District Judge. (3:21-cv-03396-MGL)

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Submitted: December 19, 2024 Decided: December 23, 2024
Amended: January 28, 2025

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Before KING and BERNER, Circuit Judges, and TRAXLER, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Victoria Lunn Jones, Appellant Pro Se. Danny Michael Henthorne, OGLETREE DEAKINS NASH SMOAK & STEWART, PC, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Victoria Lunn Jones appeals the district court's order denying relief on her action filed pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B). The magistrate judge recommended that relief be denied and advised Jones that failure to file timely, specific objections to this recommendation could waive appellate review of a district court order based upon the recommendation.

The timely filing of sufficiently specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned of the consequences of noncompliance. *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017); *Wright v. Collins*, 766 F.2d 841, 846-47 (4th Cir. 1985); *see also Thomas v. Arn*, 474 U.S. 140, 154-55 (1985). Jones has forfeited appellate review by failing to file objections to the magistrate judge's recommendation after receiving proper notice.

Accordingly, we affirm the judgment of the district court. 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*

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

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| VICTORIA LUNN JONES, Plaintiff, | § | |
| vs. | § | CIVIL ACTION 3:21-cv-3396-MGL |
| SYKES ENTERPRISES INCORPORATED, Defendant. | § | |

**ORDER ADOPTING THE REPORT AND RECOMMENDATION, GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, AND AND DISMISSING THE CASE WITH PREJUDICE**

Plaintiff Victoria Lunn Jones (Jones) filed this lawsuit against Sykes Enterprises Incorporated (Sykes). Jones is representing herself.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending to the Court Sykes's motion for summary judgment be granted and this case be dismissed in its entirety. 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 December 21, 2023, but Jones failed to file any objections. "[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Sykes's motion for summary judgment is granted and Jones's case is **DISMISSED WITH PREJUDICE.**

**IT IS SO ORDERED.**

Signed this 10th day of January, 2024, in Columbia, South Carolina.

/s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

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**NOTICE OF RIGHT TO APPEAL**

Jones is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

AO 450 (SCD 04/2010) Judgment in a Civil Action

# UNITED STATES DISTRICT COURT

for the

District of South Carolina

VICTORIA LUNN JONES,
*Plaintiff*
v.
ENTERPRISES INCORPORATED,
*Defendant*

Civil Action No. 3:21-cv-03396-MGL

## JUDGMENT IN A CIVIL ACTION

The court has ordered that *(check one)*:

☐ the plaintiff *(name)* _____ recover from the defendant *(name)* _____ the amount of _____ dollars ($__), which includes prejudgment interest at the rate of ____ %, plus postjudgment interest at the rate of ____ %, along with costs.

☐ the plaintiff recover nothing, the action be dismissed on the merits, and the defendant *(name)* _____ recover costs from the plaintiff *(name)* _____.

summary judgment is entered in favor of the defendant, Sykes Enterprises Incorporated. The plaintiff, Victoria Lunn Jones, shall take nothing of the defendant, Sykes Enterprises Incorporated, and this action is dismissed with prejudice.

This action was *(check one)*:

☐ tried by a jury, the Honorable _____ presiding, and the jury has rendered a verdict.

☐ tried by the Honorable _____ presiding, without a jury and the above decision was reached.

decided by the Court, the Honorable Mary Geiger Lewis, US District Judge, presiding. The Court having adopted the Report and Recommendation of US Magistrate Judge Thomas E. Rogers, III, granting the defendant's motion for summary judgment.

Date: January 10, 2024

*ROBIN L. BLUME, CLERK OF COURT*

s/Charles L. Bruorton

*Signature of Clerk or Deputy Clerk*

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

| | | |
|---|---|---|
| VICTORIA LUNN JONES,<br><br>Plaintiff,<br><br>-vs-<br><br>SYKES ENTERPRISES INCORPORATED,<br><br>Defendants. | ) | Civil Action No. 3:21-cv-3396-TLW-TER<br><br><br><br>**REPORT AND RECOMMENDATION** |

## I. INTRODUCTION

This action arises from Plaintiff's employment with Defendant. Plaintiff, who is proceeding pro se, alleges that Defendant retaliated against her in violation of Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. § 2000(e) et seq. Presently before the Court is Defendant's Motion for Summary Judgment (ECF No. 69). Because Plaintiff is proceeding pro se, she was advised pursuant to Roseboro v. Garrison, 528 F.3d 309 (4th Cir. 1975), that a failure to respond to Defendant's motion could result in the motion being granted and her claims against Defendant dismissed. Plaintiff filed a Response (ECF No. 73), and Defendant filed a Reply (ECF No. 74). All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. 636(b)(1)(A) and (B) and Local Rule 73.02 (B)(2)(g), DSC. This report and recommendation is entered for review by the district judge.

## II. FACTS

In her complaint, Plaintiff alleges that she was employed by Defendant, which provides inbound customer service for customers of its clients. Compl. ¶ 2 (ECF No. 1). On April 20, 2021,

Defendant's Human Resource Manager Latoya Walker-Cole told Plaintiff her employment was terminated because Plaintiff did not complete and sign the 2021 Data Protection Acknowledgment Form, which was required to be signed. Compl. ¶ 9. Plaintiff alleges that her termination was in retaliation for a previous race and gender discrimination lawsuit she filed against a former employer, the Florence County Tax Assessor's Office, "years before." Compl. ¶¶ 10, 25. Plaintiff avers that the case went to the United States Supreme Court, which refused to hear the case and, thus, Plaintiff began to seek help regarding the matter from different government agencies as well as President Trump and Senator Graham. Compl. ¶¶ 10-14. Plaintiff believes that on or around February 15, 2019, Defendant and Bank of America were notified by the United States Department of Justice, at the direction of Senator Graham, of Plaintiff's previous lawsuit and, thus, "the leadership" began to view Plaintiff as a troublemaker and did not want her associated with their companies. Compl. ¶ 17. Management began to try and force Plaintiff to sign different forms, which she believes would have taken away her legal rights to talk about retaliation against her. Compl. ¶ 18. "These people" also took a hit out on her life to keep her quiet. Compl. ¶ 19. As stated above, Plaintiff's employment was terminated on April 20, 2021. Compl. ¶ 8.

On or about May 23, 2016, Defendant hired Plaintiff as a Customer Service Agent I in its Sumter, South Carolina, location. Pl. Dep. 27:16-25 (ECF No. 69-2). Plaintiff worked in the credit card division and performed customer service duties for one of Defendant's clients, a banking company. Pl. Dep. 28:17-29:16. During the last two or three years of her employment with Defendant, Plaintiff's direct supervisor was Sheena York. Pl. Dep. 30:2-12.

Defendant terminated Plaintiff's employment on April 20, 2021. Pl. Dep. 40:5-10. On April 20, 2021, Defendant's Human Resource Manager, Latoya Walker-Cole, told Plaintiff her employment was terminated because Plaintiff did not complete and sign the 2021 Data Protection

Acknowledgment Form, which was required to be signed. Pl. Dep. 40:11-16. Plaintiff concedes she did not sign the 2021 Data Protection Acknowledgment Form. Pl. Dep. 40:17-21; 47:11-16; 114:13-18.

On several instances, Defendant asked Plaintiff to complete her 2021 Data Protection Acknowledgement Form, which was a Computer Based Training required by Defendant's client for whom Plaintiff performed customer service duties. Latoya Walker-Cole Decl. ¶ 5 (ECF No, 69-3). On March 31, 2021, Senior Account Manager Herllel Garita Martinez and Operations Manager Shayla Yates attempted to speak with Plaintiff regarding the required training, but Plaintiff refused and stated that her "representative" would "be in touch" with Defendant. Shayla Yates Decl. ¶ 6 (ECF No. 69-4).

On April 12, 2021, Walker-Cole and Training Manager Michael Young spoke with Plaintiff regarding the need to complete her 2021 Data Protection Acknowledgement Form. Walker-Cole Decl. ¶ 6. Once again, Plaintiff refused to do so. Walker-Cole Decl. ¶ 6. Plaintiff did not complete the required Data Protection Notice Acknowledgment Form in 2021. Pl. Dep. 114:13-18; Walker-Cole Decl. ¶ 7.

Defendant terminated Plaintiff's employment on April 20, 2021. Pl. Dep. 40: 5-10. Walker-Cole informed Plaintiff that Defendant was terminating Plaintiff's employment for violation of the Company's policies, and specifically for insubordination and refusing to perform reasonable, assigned responsibilities. Pl. Dep. 111:4-11; Pl. Dep. Ex. 2; Walker-Cole Decl. ¶ 8; Yates Decl. ¶ 8; Sheena York Decl. ¶ 7 (ECF No. 69-5). Plaintiff refused to sign her Termination Notice. Pl. Dep. Ex. 2; Walker-Cole Decl. ¶ 8.

Plaintiff avers that former President and Chief Executive Officer for Defendant, Charles (Chuck) Sykes, made the decision to terminate her employment "[b]ecause he is the owner of that

company." Pl. Dep. 104:6-20. Plaintiff does not know whether anyone else knew that she had filed a lawsuit against the Florence County Tax Assessor's Office or that she had written a letter to former President Donald Trump asking for his help related to that previous lawsuit. Pl. Dep. 47:17-51:2; 53:10-55:8; 67:15-21; 68:2-5; 104:21-106:17.

Contrary to Plaintiff's allegations, Defendant argues that the decision to terminate Plaintiff's employment was made by her managers at the Sumter, South Carolina, location, Sheena York and Shayla Yates. Walker-Cole Decl. ¶ 9; Yates Decl. ¶ 9; York Decl. ¶ 8. No executive-level managers at Defendant's corporate headquarters, including Sykes, participated in the decision to terminate Plaintiff's employment. Walker-Cole Decl. ¶ 9; Yates Decl. ¶ 9; York Decl. ¶ 8. Further, neither Yates nor York knew that Plaintiff had previously filed a race and gender discrimination lawsuit against the Florence County Tax Assessor's Office or that she had written a letter to former President Donald J. Trump to ask for his assistance regarding her previous lawsuit against the Florence County Tax Assessor's Office. Yates Decl. ¶ 10; York Decl. ¶ 9.

## III. STANDARD OF REVIEW

Under Fed.R.Civ.P. 56, the moving party bears the burden of showing that summary judgment is proper. Summary judgment is proper if there is no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law. Fed.R.Civ.P. 56(a); Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). Summary judgment is proper if the non-moving party fails to establish an essential element of any cause of action upon which the non-moving party has the burden of proof. Id. Once the moving party has brought into question whether there is a genuine dispute for trial on a material element of the non-moving party's claims, the non-moving party bears the burden of coming forward with specific facts which show a genuine dispute for trial. Fed.R.Civ.P. 56(e); Matsushita Electrical Industrial Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574

(1986). The non-moving party must come forward with enough evidence, beyond a mere scintilla, upon which the fact finder could reasonably find for it. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986). The facts and inferences to be drawn therefrom must be viewed in the light most favorable to the non-moving party. Shealy v. Winston, 929 F.2d 1009, 1011 (4th Cir. 1991). However, the non-moving party may not rely on beliefs, conjecture, speculation, or conclusory allegations to defeat a motion for summary judgment. Barber v. Hosp. Corp. of Am., 977 F.2d 874-75 (4th Cir. 1992). The evidence relied on must meet "the substantive evidentiary standard of proof that would apply at a trial on the merits." Mitchell v. Data General Corp., 12 F.3d 1310, 1316 (4th Cir. 1993).

To show that a genuine dispute of material fact exists, a party may not rest upon the mere allegations or denials of his pleadings. See Celotex, 477 U.S. at 324. Rather, the party must present evidence supporting his or her position by "citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials." Fed.R.Civ.P. 56(c)(1)(A); see also Cray Communications, Inc. v. Novatel Computer Systems, Inc., 33 F.3d 390 (4th Cir. 1994); Orsi v. Kickwood, 999 F.2d 86 (4th Cir. 1993); Local Rules 7.04, 7.05, D.S.C.

## IV. DISCUSSION

As set forth above, Plaintiff alleges a cause of action for retaliation in violation of Title VII. Title VII 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, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter." 42 U.S.C. § 2000e-3(a).

Under the burden-shifting analysis set forth in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973), Plaintiff can establish a prima facie case of retaliation by showing that (1) she engaged in protected activity, (2) the employer took adverse employment action against her, and (3) a causal connection existed between the protected activity and the adverse action. Ross v. Communications Satellite Corp., 759 F.2d 355, 365 (4th Cir.1985); Laughlin v. Metropolitan Washington Airports Authority, 149 F.3d 253, 258 (4th Cir.1998); Causey v. Balog, 162 F.3d 795, 803 (4th Cir.1998). If Plaintiff establishes a prima facie case, Defendants can rebut the presumption of retaliation by articulating a non-retaliatory reason for its actions. At that point, Plaintiff must present evidence sufficient to create a genuine issue of material fact that Defendants' legitimate, non-retaliatory reason is pretextual. See Matvia v. Bald Head Island Management, 259 F.3d 261, 271 (4th Cir.2001).

Protected activity involves opposing an unlawful employment practice which the plaintiff reasonably believed had occurred or was occurring. Peters v. Jenney, 327 F.3d 307, 320 (4th Cir. 2003). The Fourth Circuit has "articulated an expansive view of what constitutes oppositional conduct, recognizing that it encompasses utilizing informal grievance procedures as well as staging informal protests and voicing one's opinions in order to bring attention to an employer's discriminatory activities." DeMasters v. Carilion Clinic, 796 F.3d 409, 417 (4th Cir. 2015) (internal quotation marks omitted). As a matter of public record, in 2001 Plaintiff filed a Title VII discrimination claim against her former employer, the Florence County Tax Assessor's Office.[1] Defendant does not dispute that the 2001 lawsuit constitutes protected activity. It is further undisputed that Plaintiff suffered an adverse employment action when she was terminated from employment with Defendant.

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[1]Civil Action No. 4:01-cv-03121-TLW-TER.

However, Defendant argues that Plaintiff cannot show a causal connection between her 2001 lawsuit against a different employer and her termination in 2021. To establish a causal connection, Plaintiff must show that (1) the protected activity preceded the materially adverse action and (2) that the employer knew the employee engaged in a protected activity. Causey, 162 F.3d at 803-04 (stating that "[k]nowledge of a charge is essential to a retaliation claim"); see also Dowe v. Total Action Against Poverty in Roanoke Valley, 145 F.3d 653, 657 (4th Cir. 1998) (explaining that "[s]ince, by definition, an employer cannot take action because of a factor of which it is unaware, the employer's knowledge that the plaintiff engaged in a protected activity is absolutely necessary to establish the third element of the prima facie case"). Although Plaintiff alleges that Defendant became aware of her previous discrimination lawsuit on or about February 15, 2019, and "the leadership" began to view her as a troublemaker and did not want her associated with their company, she fails to present evidence to support this allegation. In her deposition, Plaintiff was unable to identify anyone employed by Defendant who knew she had previously filed a lawsuit against the Florence County Tax Assessor's Office or that she had written a letter to former President Trump asking for his help related to that previous lawsuit. Pl. Dep. 47:17-51:2; 53:10-55:8; 67:15-21; 68:2-5; 104:21-106:17. The undisputed evidence in the record reveals that the decision to terminate Plaintiff's employment was made by her managers in Sumter, York and Yates. No executive-level managers at Defendant's corporate headquarters, including Sykes, participated in the decision to terminate Plaintiff's employment. Both Yates and York declare that they had no knowledge of Plaintiff's previous discrimination lawsuit against her former employer. Though Plaintiff files a sworn statement and other documents in opposition to the present motion, she does not address the issues before the court–that is, whether a causal connection exists between her protected activity in 2001 and her termination in 2021. In the absence of any evidence that the individuals who made the decision to

terminate Plaintiff's employment knew of her protected activity, Plaintiff cannot show that a causal connection exists between that activity and her termination. As a result, she cannot establish a prima facie case of retaliation and summary judgment is appropriate.

## V. CONCLUSION

For the reasons discussed above, it is recommended that Defendant's Motion for Summary Judgment (ECF No. 69) be granted and this case be dismissed in its entirety.

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

December 21, 2023
Florence, South Carolina

**The parties are directed to the important information in the attached page.**

**Notice of Right to File Objections to Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. "[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
Post Office Box 2317
Florence, South Carolina 29503

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

FILED: January 28, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 24-1115
(3:21-cv-03396-MGL)

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VICTORIA LUNN JONES

Plaintiff - Appellant

v.

SYKES ENTERPRISES, INCORPORATED

Defendant - Appellee

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ORDER

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Victoria Lunn Jones filed a petition for panel rehearing and rehearing en banc noting that her name is listed incorrectly in the body of the opinion. The court denies the petition for rehearing and rehearing en banc and Jones's motion for costs. A corrected opinion will issue separately. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

**Entered at the direction of the panel: Judge King, Judge Berner, and Senior Judge Traxler.**

For the Court

/s/ Nwamaka Anowi, Clerk

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