

APPENDIX

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**APPENDIX A — JUDGMENT OF THE UNITED
STATES COURT OF APPEALS FOR THE FIRST
CIRCUIT, ENTERED OCTOBER 4, 2024**

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 19-2084

PEDRO ORTIZ-ROMERO,

Plaintiff-Appellant,

v.

GOVERNMENT DEVELOPMENT BANK FOR
PUERTO RICO; CHRISTIAN SOBRINO-VEGA;
GUILLERMO CAMBA-CASAS,

Defendants-Appellees.

Before

Barron, *Chief Judge.*
Gelpi and Rikelman, *Circuit Judges.*

Entered: October 4, 2024

JUDGMENT

Plaintiff-appellant appeals from the district court's dismissal of his discrimination and retaliation complaint against the Government Development Bank and two of its

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officials arising from the termination of his employment with that entity. This court reviews de novo a district court's dismissal of a complaint based on Fed. R. Civ. P. 12(b)(6). *See Squeri v. Mount Ida College*, 954 F.3d 56, 65 (1st Cir. 2020). After careful review of the district court record and the filings on appeal, we agree with the district court that plaintiff's complaint failed plausibly to allege a case of age-based discrimination or retaliation. The dismissal of plaintiff-appellant's complaint is affirmed. *See* 1st Cir. R. 27.0(c).

By the Court:

Anastasia Dubrovsky, Clerk

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**APPENDIX B — JUDGMENT OF THE UNITED
STATES DISTRICT COURT FOR THE DISTRICT
OF PUERTO RICO, FILED SEPTEMBER 11, 2019**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CIVIL NO. 18-1993 (JAG)

PEDRO ORTIZ-ROMERO,

Plaintiff,

v.

GOVERNMENT DEVELOPMENT BANK FOR
PUERTO RICO, *et al.*,

Defendants.

Filed September 11, 2019

JUDGMENT

Pursuant to this Court's Order issued today, Docket No. 22, Judgment is hereby entered DISMISSING WITHOUT PREJUDICE Plaintiff's action. The case is now closed for statistical purposes.

IT IS SO ORDERED.

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In San Juan, Puerto Rico this Wednesday, September 11, 2019.

s/ Jay A. Garcia-Gregory
JAY A. GARCIA-GREGORY
U.S. DISTRICT JUDGE

**APPENDIX C — MEMORANDUM OPINION AND
ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF PUERTO RICO,
FILED SEPTEMBER 11, 2019**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CIVIL NO. 18-1993 (JAG)

PEDRO ORTIZ-ROMERO,

Plaintiff,

v.

GOVERNMENT DEVELOPMENT BANK FOR
PUERTO RICO, *et al.*,

Defendants.

Filed September 11, 2019

MEMORANDUM OPINION AND ORDER

GARCIA-GREGORY, D.J.

This matter is pending before the Court on co-Defendants Government Development Bank for Puerto Rico (“GDB”), Christian Sobrino-Vega, and Guillermo Camba-Casas’ Motion to Dismiss under Fed. R. Civ. P. 12(b)(6); and Plaintiff Pedro Ortiz-Romero’s Opposition thereto. Docket Nos. 6; 13; 19; 20. After reviewing their

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respective positions and the applicable case law, the Court finds that the well-pleaded factual allegations in Plaintiff's Complaint fail to state plausible claims for (i) age-based discrimination and (ii) retaliation under the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 *et seq.* See *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (To "show" an entitlement to relief, a complaint must contain enough factual material "to raise a right to relief above the speculative level on the assumption that all the allegations in the complaint are true (even if doubtful in fact).").

At the outset, the Court cannot infer the existence of age-based discrimination from the factual allegations therein given the other (just as) likely reason for Plaintiff's termination: That the GDB permanently ceased its operations on the same day (March 23, 2018). See *Ashcroft v. Iqbal*, 556 U.S. 662, 681-82 (2009) (refusing to plausibly infer "purposeful, invidious discrimination" as the motive for plaintiff's arrest partly because legitimate law enforcement policies provided an "obvious alternative explanation" after the 9/11 terrorist attacks); *Ocasio-Hernandez v. Fortuno-Burset*, 640 F.3d 1, 12-13 (1st Cir. 2011) ("The relevant inquiry [under Fed. R. Civ. P. 12(b) (6)] focuses on the reasonableness of the inference of liability that the plaintiff is asking the court to draw from the facts alleged in the complaint."); *Torrech-Hernandez v. Gen. Elec. Co.*, 519 F.3d 41, 48 (1st Cir. 2008) (noting age-based discrimination under ADEA requires, among other things, a *prima facie* showing that the employer had a continuing need for the services the plaintiff had been performing).

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Moreover, Plaintiff's decision to refuse the GDB's severance package does not constitute ADEA-protected conduct for purposes of his retaliation claim. *Ramos v. Vizcarrondo*, 120 F. Supp. 3d 93, 108-09 (D.P.R. 2015) (citing 29 U.S.C. § 623(d)) ("[A]n individual engages in protected conduct when he or she has opposed any practice made unlawful by the ADEA or has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under the ADEA."). Finally, Messrs. Sobrino-Vega and Camba-Casas are not plausible co-Defendants to this action because the ADEA does not provide for individual liability. *Id.* at 102-03; *see Penalbert-Rosa v. Fortuno-Burset*, 631 F.3d 592, 594 (1st Cir. 2011) ("[A]n adequate complaint must include not only a plausible claim but also a plausible defendant.").

The Court accordingly GRANTS Defendants' Motion to Dismiss under Fed. R. Civ. P. 12(b)(6). Judgment shall be entered separately.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this Wednesday, September 11, 2019.

s/ Jay A. Garcia-Gregory
JAY A. GARCIA-GREGORY
United States District Judge

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**APPENDIX D — MANDATE OF THE UNITED
STATES COURT OF APPEALS FOR THE FIRST
CIRCUIT, ENTERED OCTOBER 28, 2024**

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 19-2084

PEDRO ORTIZ-ROMERO,

Plaintiff-Appellant,

v.

GOVERNMENT DEVELOPMENT BANK FOR
PUERTO RICO; CHRISTIAN SOBRINO-VEGA;
GUILLERMO CAMBA-CASAS,

Defendants-Appellees.

MANDATE

Entered: October 28, 2024

In accordance with the judgment of October 4, 2024,
and pursuant to Federal Rule of Appellate Procedure
41(a), this constitutes the formal mandate of this Court.

By the Court:

Anastasia Dubrovsky, Clerk

