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In the Supreme Court of the United States

EMILY LAUGHLIN,

Petitioner,

v.

MIAMI-DADE COUNTY, FLORIDA,

Respondent.

**ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

PETITION FOR WRIT OF CERTIORARI

Jonathan Pollard
POLLARD PLLC
500 E. Broward Blvd.
Fort Lauderdale, FL
33394
(954) 332-2380
jpollard@pollardllc.com

Cameron L. Atkinson
Counsel of Record
ATKINSON LAW, LLC
P.O. Box 340
Harwinton, CT 06791
(203) 677-0782
catkinson@atkinsonlawfirm.com

Attorneys for Petitioner

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QUESTIONS PRESENTED

Whether federal courts may require discrimination plaintiffs to establish pretext to survive summary judgment (under *McDonnell Douglas* or otherwise) when neither Rule 56 nor the governing discrimination statutes imposes a pretext requirement, and Rule 56 is intended to operate trans-substantively across all civil actions.

PARTIES TO THE PROCEEDINGS

Emily Laughlin, petitioner and plaintiff-appellant below, is petitioner.

Miami-Dade County, Florida, respondent and defendant-appellee below, is respondent.

RELATED PROCEEDINGS

United States District Court (SD Fla.):

Emily Laughlin v. Miami-Dade County, Florida,
No. 1:23-cv-23350-KMM (Sep. 9, 2024) (summary judgment for respondent granted)

United States Court of Appeals (CA11):

Emily Laughlin v. Miami-Dade County, Florida,
No. 24-13284 (Dec. 15, 2025) (district court affirmed)

Emily Laughlin v. Miami-Dade County, Florida,
No. 24-13284 (Mar. 19, 2026) (rehearing and rehearing en banc denied)

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INTRODUCTION

This case raises the important issue of whether Rule 56 applies trans-substantively to all civil actions, or whether discrimination cases are instead subject to judge-made strictures and frameworks that do not exist in the Federal Rules or the applicable statutory law. Federal courts grant summary judgment in thousands of employment-discrimination cases each year and often base that grant on the plaintiff's failure to satisfy *McDonnell Douglas* or prove pretext. But *McDonnell Douglas* has no bearing at the summary-judgment stage, and pretext is not an element of any employment-discrimination claim. Courts funnel these cases into *McDonnell Douglas* or another framework that requires pretext by virtue of an artificial distinction between direct and circumstantial evidence. Once in the realm of circumstantial evidence, judges decide issues of fact and credibility and grant summary judgment to defendants at an alarming rate. This disability-discrimination case is a stark vehicle for that issue. Laughlin had a brain tumor. At the meeting where Laughlin was fired, management explicitly stated she was being discharged because she was "not able to give 100% right now" and should take time off to focus on her health. After firing Laughlin, the County replaced her with two people. These facts are undisputed. Among other holdings, the district court concluded that Laughlin lacked direct evidence of discrimination and granted summary judgment because Laughlin did not disprove the County's stated reasons for firing her. The Eleventh Circuit agreed with that rationale. This Court should review this case to end decades of misalignment between the analytical

framework used in employment-discrimination cases and Rule 56 at the summary-judgment stage.

OPINIONS BELOW

The Eleventh Circuit’s opinion is reproduced in the Appendix at App. 1–18. The district court’s order granting summary judgment is reproduced in the Appendix at App. 19–38.

JURISDICTION

The Eleventh Circuit’s judgment was entered on December 15, 2025. The Eleventh Circuit denied rehearing on March 19, 2026. This Court has jurisdiction under 28 U. S. C. § 1254(1).

STATUTORY AND RULE PROVISIONS INVOLVED

29 U. S. C. § 794(a), in relevant part: “No otherwise qualified individual with a disability in the United States * * * shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance[.]”

42 U. S. C. § 12112(a), in relevant part: “No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.”

Fed. R. Civ. P. 56(a) provides, in relevant part:

A party may move for summary judgment, identifying each claim or defense—or the part of each

claim or defense—on which summary judgment is sought. The court shall grant summary judgment 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).

STATEMENT OF THE CASE

In February 2022, petitioner Emily Laughlin was hired as an outreach specialist for respondent Miami-Dade County's Animal Services Department (ASD). Laughlin's job involved coordinating, planning, and supervising community pet adoption events for the County's animal shelters. Her employment was subject to a mandatory 12-month probationary period.

Several months into her tenure, Laughlin began experiencing severe neurological and physiological symptoms, including recurring dizziness, blinding headaches, and debilitating vomiting spells occurring up to thirty times a day. Following medical testing, specialists diagnosed her with a pineal brain tumor, multiple thyroid nodules, clinical vomiting syndrome, vertigo, and Hashimoto's disease. Laughlin disclosed her diagnoses to her supervisor and a County human resources agent. The County granted her an accommodation that permitted her to work remotely three days per week.

Following the implementation of this accommodation, management and department staff exhibited immediate resistance to Laughlin's partially remote status. ASD Director Bronwyn Stanford, who disfavored remote work, directly confronted Laughlin to question the duration and persistence of the arrangement. Co-worker cooperation deteriorated concurrently; staff

members ignored Laughlin's remote communications; and one colleague explicitly stated she would only respond to inquiries if Laughlin was physically at the office.

Despite these conditions, in October 2022, Laughlin successfully spearheaded the shelter's largest annual adoption event, earning written commendations from Director Stanford for an "amazing job."

In November 2022, Laughlin's newly assigned supervisor, Victoria Valledor, began scheduling mandatory in-person meetings on days Laughlin was permitted to work from home and excluded her entirely from a newly formed events committee. Laughlin overheard Valledor tell a colleague: "You know she's faking it, right? Being sick. There's no way she has a brain tumor."

On January 5, 2023, eleven months into her probation, Laughlin was called into a termination meeting with Jose, Valledor, and County human resources. The entire interaction was audio recorded. During the meeting, Jose explicitly asserted that Laughlin was being separated because "unfortunately at this time you're not able to dedicate all of your time to the work." When Laughlin directly asked if she was being failed because of her health issues, Jose answered, "No, because of your performance, but because you're not able to give 100% right now." Jose later added that it would be "better for [Laughlin] to focus on [herself] and [her] health this new year." And so, Laughlin was fired. The County replaced her with two people.

Laughlin brought suit in the Southern District of Florida, alleging disability discrimination under the ADA, the Rehabilitation Act, and the Florida Civil Rights Act. The County moved for summary judgment,

asserting, among other things, that it possessed a legitimate, non-discriminatory performance rationale centered on coworker communication complaints.

The district court granted summary judgment in favor of the County, holding that Laughlin failed to establish intentional discrimination because she could not show that the County's proffered performance justifications were pretextual. The Eleventh Circuit affirmed. On the question of direct evidence, the panel determined that the explicit statements made by Jose during the termination meeting regarding Laughlin's inability to "give 100% right now" due to her health were "ambiguous" and failed to satisfy the circuit's rigorous standard for direct proof. Turning to circumstantial evidence analysis under *McDonnell Douglas* and the "convincing mosaic" framework, the panel held that because Laughlin failed to definitively negate the performance complaints raised by the County, she could not prove that the County's justifications were pretextual. Rehearing and rehearing en banc were denied on March 19, 2026.

REASON FOR GRANTING THE PETITION

The decision below reflects a recurring feature of federal employment-discrimination litigation: plaintiffs are denied jury trials because they fail to establish pretext. Yet neither Rule 56 nor the governing discrimination statutes impose such a requirement.

Rule 56 asks a single question: Could a reasonable jury, viewing the record in the light most favorable to the nonmovant, find in that party's favor? Nothing in Rule 56 conditions a plaintiff's right to reach a jury on proof of pretext. Pretext is not an element of an ADA claim, a Rehabilitation Act claim, or any other federal

discrimination statute. Federal courts nonetheless treat pretext as a prerequisite to trial.

The decision below is illustrative. The district court framed the inquiry as whether intentional discrimination could be inferred from the evidence; that is, it purported to apply Rule 56 rather than rely solely on *McDonnell Douglas*. But the district court still concluded that petitioner's claims failed because she had not established pretext and because discrimination was the real reason for the challenged action. The Eleventh Circuit affirmed.

That reasoning reveals a problem far larger than one case and one appellate court decision. The First, Third, Fifth, Sixth, Eighth, and Tenth Circuits, at a minimum, treat *McDonnell Douglas* as established law in single-factor discrimination cases and rigidly require proof of pretext. See, e.g., *Zabala-De Jesus v. Sanofi-Aventis P.R., Inc.*, 959 F.3d 423, 430–32 (CA1 2020) (granting summary judgment in age discrimination case for failure to satisfy pretext under *McDonnell Douglas*); *Fowler v. AT&T, Inc.*, 19 F.4th 292, 298–99 (CA3 2021) (applying *McDonnell Douglas* and granting summary judgment on ADEA claims for failure to establish pretext); *Owens v. Circassia Pharm., Inc.*, 33 F.4th 814, 825–835 (CA5 2022) (granting summary judgment in a race discrimination case under *McDonnell Douglas* for failure to establish pretext and holding that evidence that employer's stated reasons were false was insufficient); *Miles v. S. Cent. Human Res. Agency, Inc.*, 946 F.3d 883, 888–96 (CA6 2020) (granting summary judgment in ADEA case under *McDonnell Douglas* for failure to establish pretext and rejecting numerous proffered examples of pretext as not compelling enough to disprove the employer's

stated reason); *Nelson v. Lake Elmo Bank*, 75 F. 4th 932, 936–40 (CA8 2023) (applying *McDonnell Douglas* to Minnesota state law discrimination claims and granting summary judgment for lack of pretext while rejecting numerous proffered examples of pretext as insufficient and crediting the perceived “honest belief” of the employer); *Iweha v. Kansas*, 121 F. 4th 1208, 1240–49 (CA10 2024) (granting summary judgment on Title VII claims under *McDonnell Douglas* for failure to establish pretext). These courts rigidly apply *McDonnell Douglas* and require pretext.

The Seventh Circuit applies either *McDonnell Douglas* or a “holistic” framework, with either framework requiring pretext. See, e. g., *Saud v. DePaul University*, 154 F. 4th 563 (CA7 2025) (applying *McDonnell Douglas*, focusing heavily on plaintiff’s failure to prove pretext, briefly discussing the “holistic” summary-judgment standard (*i. e.* Rule 56), but ultimately deeming lack of pretext dispositive).

The Eleventh Circuit holds that plaintiffs may survive summary judgment by satisfying *McDonnell Douglas* or presenting a convincing mosaic of evidence that supports a finding of discrimination. Recently, the Eleventh Circuit has held that proof of pretext is not required under its convincing mosaic standard. *Ismael v. Roundtree*, 161 F. 4th 752, 763 (CA11 2025). But in this case, the Eleventh Circuit held that petitioner’s claims failed because she could not prove pretext. See App. 15–16.

A majority of the circuits require not just a showing of pretext to survive summary judgment, but such a strong showing of pretext as to constitute proof of pretext in the minds of circuit court judges. And district court judges treat summary judgment as the moment

of ultimate proof. The ultimate proof they seek is disproof. Rather than asking whether a reasonable jury could infer discrimination, courts ask whether the plaintiff has disproven the defendant's stated reason for the challenged action. This compounds the error. The plaintiff is no longer required merely to demonstrate the existence of a triable issue. Instead, the plaintiff must affirmatively prove pretext—a judge-made requirement that effectively demands proof of the ultimate merits before trial.

This type of pretext derives from *McDonnell Douglas* regardless of whether courts purport to evaluate summary judgment under some other, holistic standard. In this universe, courts begin with the premise that the defendant's narrative is entitled to credence unless the plaintiff affirmatively disproves that narrative. But Rule 56 does not require a plaintiff to provide evidence that “attack[s] or even ha[s] anything to do with [a defendant's] purported rationale to help raise an inference of discrimination.” *Ismael*, 161 F. 4th at 764. This is the analytical gap. Evidence that may not rise to the level of *McDonnell Douglas* pretext may still be sufficient for a reasonable jury to find unlawful discrimination.

In practice, courts have elevated the judge-created requirement of pretext over the ultimate jury question of discriminatory intent at a stage of the case when a showing of ultimate proof is not yet required. This operates to take the question of pretext away from the jury and allows district judges to make sweeping factual findings and credibility determinations on disputed records, without having seen the parties and witnesses testify. The result is a body of discrimination-specific summary-judgment doctrine untethered

from Rule 56 and the governing statutes. The result is that plaintiffs in employment-discrimination cases are required to satisfy judicially created burdens that do not exist at trial and are unrecognizable in virtually any other type of federal civil case. Given their fact-intensive nature and the importance of witness credibility, there should be more employment-discrimination trials, not less.

To funnel cases into these rigid frameworks and dispose of them at summary judgment, courts rely on the artificial, judge-made distinction between direct and circumstantial evidence. In any other context involving Rule 56, the law makes no distinction between direct and circumstantial evidence. Circumstantial evidence is not a lesser tier of proof and sometimes may be more persuasive than direct evidence. See *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 100 (2003). Compounding this problem, courts have set the bar for what constitutes direct evidence in employment-discrimination cases exceedingly high. See, e.g., *Earley v. Champion International Corp.*, 907 F.2d 1077 (CA11 1990) (classifying the statement “fire Earley he is too old” as direct evidence). Anything short of the proverbial smoking gun is deemed circumstantial evidence and the claims are subjected to a more demanding, judge-made test at the summary-judgment stage. At trial, however, the jury is not instructed to distinguish between direct and circumstantial evidence. It follows that this distinction cannot dictate which standard applies at summary judgment and which claims advance to trial.

Summary judgment is a threshold inquiry and must be restored as such. That means eliminating judge-

created burdens and letting juries decide disputed facts and determine credibility.

* * *

This Court’s review is warranted because the question presented affects thousands of federal cases each year. Absent this Court’s guidance, the circuits will continue to utilize *McDonnell Douglas* or create other tests that ignore the plain meaning of Rule 56.

CONCLUSION

This Court should grant certiorari.

Jonathan Pollard	Cameron L. Atkinson
POLLARD PLLC	<i>Counsel of Record</i>
500 E. Broward Blvd.	ATKINSON LAW, LLC
Fort Lauderdale, FL	P.O. Box 340
33394	Harwinton, CT 06791
(954) 332-2380	(203) 677–0782
jpollard@pollardllc.com	catkinson@atkinsonlawfirm.com

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Attorneys for Petitioner

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Opinion [not precedential], United States Court of Appeals for the Eleventh Circuit, *Emily Laughlin v. Miami-Dade County, Florida*, No. 24-13284 (Dec. 15, 2025) App–1

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Order [rehearing denied], United States Court of Appeals for the Eleventh Circuit, *Emily Laughlin v. Miami-Dade County, Florida*, No. 24-13284 (Mar. 19, 2026) App–39

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Appendix A

[Filed: Dec. 15, 2025]

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-13284
Non-Argument Calendar

EMILY LAUGHLIN,

Plaintiff-Appellant,

versus

MIAMI-DADE COUNTY, FLORIDA,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:23-cv-23350-KMM

Before JILL, PRYOR, LAGOA, and WILSON, Circuit
Judges.

PER CURIAM:

Appellant Emily Laughlin was a probationary employee of the Animal Services Department (the “ASD”) of Appellee Miami-Dade County, Florida (the “County”). During her probationary period, the County determined that she had failed the terms of her probation and then terminated her employment. Laughlin sued the County after her termination,

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raising disability discrimination claims under the Americans with Disabilities Act of 1990 (the “ADA”), the Rehabilitation Act of 1973 (the “RA”), and the Florida Civil Rights Act (the “FCRA”). She alleged that she was disabled because of her medical conditions and the County terminated her because of her disability. In response, the County argued that it had a legitimate, nondiscriminatory reason for ending Laughlin’s employment, pointing to her poor performance while on probation.

The district court granted summary judgment to the County. After careful consideration, and for the reasons explained below, we affirm the grant of summary judgment.

I. BACKGROUND

In the section that follows, we discuss the case’s factual back-ground—including Laughlin’s probationary employment at the ASD, her medical conditions, and the County’s determination that she had failed her probation and its decision to terminate her employment. We then lay out her lawsuit’s procedural history.

A. Factual Background

In February 2022, Laughlin was hired as an outreach specialist for the Miami-Dade County ASD.¹ Her job duties included booking and hosting pet adoption events at the ASD’s animal shelter and in the community. Upon hiring, Laughlin had to successfully complete a 12-month probationary period before

¹ Because the district court granted summary judgment against Laughlin, we consider the record in the light most favorable to her. See *Copeland v. Dep’t of Corr.*, 97 F.4th 766, 770 n.1 (11th Cir. 2024).

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attaining civil service status. Probationary employees are informally evaluated by their supervisors rather than through formal performance reviews. Employees who fail probation lose their positions at the ASD.

Several months into her probationary period, Laughlin began to experience health problems. She had migraines, dizzy spells, ringing in her ears, light-headedness, difficulty swallowing, and episodes of vomiting. The vomiting occurred as frequently as 20 to 30 times per day and made it hard for her to eat. Laughlin's doctor diagnosed her with a brain tumor and masses on her thyroid, as well as an autoimmune disease. After receiving these diagnoses, Laughlin began to seek medical treatment for her medical conditions with specialists, including a neurosurgeon, a neurologist, and a gastroenterologist.

Laughlin discussed her health problems with Gilda Nunez, her supervisor at the time, and a human resources manager. She was asked to provide documentation about her conditions. She submitted a nurse's note that said she had "multiple complex medical issues" and "require[d] time off to work to complete required testing and follow up." Doc. 20-8 at 1.² The ASD gave her an accommodation to work from home on some days and to work flexible hours, provided that she worked eight hours each day.

Although Laughlin had been given permission to work from home, Bronwyn Stanford, the ASD director, was unhappy with this accommodation. Stanford "wasn't a fan of people working from home." Doc. 20-1 at 50–51. She questioned Laughlin about her accommodation, asking, "But how long do you think you're

² "Doc." numbers refer to the district court's docket entries.

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going to be working from home? Is that gonna stop soon? Can we stop that soon?” Doc. 20-2 at 5–6.

Laughlin also had problems with other coworkers once she became sick and started working from home. She reported that they became less responsive to her emails, less responsive to her calls, and less willing to help her with organizing events. One colleague even said that she would respond to Laughlin’s calls or emails only if Laughlin was working at the office.

In October 2022, Laughlin helped organize MEGA, the shelter’s largest event of the year. While planning the event, Laughlin received no assistance from her coworkers, who gave her “the cold shoulder.” Doc. 20-2 at 52. The adoption counselors would not help her decorate. Needing assistance, she asked her mother and mother-in-law to come to the shelter and help out. Shortly before the event, Stanford emailed all ASD staff giving a “SHOUT OUT” to Laughlin for bringing “her mother and aunt here” and doing “an amazing job with decorations.” Doc. 28-4 at 2.

In November 2022, Laughlin was assigned a new supervisor, Victoria Valledor, the ASD shelter program manager. Although she allowed Laughlin to work from home, Valledor organized in-person meetings on days when Laughlin was not in the office. Valledor also created an events committee but did not place Laughlin on it, perhaps “in preparation of getting rid of [her].” Doc. 20-1 at 123–24. At one point, Laughlin overheard Valledor telling another colleague “something along th[e] lines” of “you know she’s faking it, right? Being sick. There’s no way she has a brain tumor.” Doc. 20-1 at 130–31.

Laughlin’s relationship with her coworkers continued to deteriorate. At “almost every event,” members

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of the ASD staff complained about Laughlin's performance. Doc. 20-5 at 68. According to Valledor, Laughlin would frequently forget to do things at events and then burden other staff to "make up for what she was not doing." *Id.* For one event, Valledor said she had to "scramble last minute" because Laughlin failed to ensure that a mobile animal clinic vehicle was available. *Id.* at 53.

Additional issues regarding Laughlin's performance arose after a December 2022 event. Although Laughlin was not attending the event, she had signed out a portable credit card machine for the use of a counselor who was working the event. When Laughlin was in the office at the end of the next week, she made sure that the credit card machine had been returned. But the adoption counselor did not return receipts related to the event to ASD's finance division. Instead, the counselor put the receipts in Laughlin's office. Laughlin did not know that the receipts were there, and they were not timely turned in to the finance division. Twelve days after the event, members of the finance division found the receipts on Laughlin's desk. They complained to Valledor, saying that because the receipts had not been turned in, the finance division was "extremely tardy in completing the reconciliation process and submitting documentation." Doc. 20-16 at 2. Laughlin didn't deny that the receipts were overdue. But she said the counselors who worked the events, rather than she, "always handled" the receipts, and that these receipts were put in her office without her knowledge. Doc. 28-1 at 2.

Soon after this incident, Valledor asked Laughlin to meet for an informal discussion about her job performance. Valledor asked the human resources manager

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to attend as well. At the meeting, Valledor explained that she had been receiving complaints from ASD staff about Laughlin “being unprofessional [and] going into offices and distracting them from work.” Doc. 20-5 at 64.

Subsequently, Valledor emailed Laughlin to recap the discussion. She expressed additional concerns with Laughlin’s work performance. Among other things, she explained that “several employees ha[d] come to [her] stating they [we]re uncomfortable” with unprofessional statements Laughlin had made. Doc. 20-11 at 2. She also mentioned the concern raised by the finance division about Laughlin’s failure to timely submit receipts. *Id.*

According to Valledor, Laughlin’s performance did not im-prove after the meeting. She said that Laughlin continued to be in-efficient when working from home. She noted one specific day when Laughlin produced little work output while reporting four hours of work time.

In January 2023, 11 months into Laughlin’s 12-month probationary period, Valledor informed human resources that she in-tended to conclude that Laughlin had failed the probationary period. Human resources then prepared a failure-of-probation letter and presented it to Stanford, who signed it.³

³ 3 Stanford’s role in the decision to end Laughlin’s employment is unclear. In her deposition, Stanford said that she would need to sign a failure-of-probation letter to decide when someone had failed the probationary period. It was her habit to ask questions about the employee’s performance before signing. But she did not recall signing Laughlin’s failure letter. Yet she acknowledged that she must have signed the letter because her signature was on it. And she did recall being told that Laughlin was “not

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Then, Valledor, ASD Assistant Director Annette Jose, and a human resources manager met with Laughlin to tell her that she had failed her probation. Jose was the assistant director who oversaw human resources. In the meeting, Jose told Laughlin: “unfortunately at this time you’re not able to dedicate all of your time to the work.” Doc. 28-3 at 3. Laughlin replied by asking if she was being “failed because of my health issues.” *Id.* Jose replied, “No, because of your performance, but because you’re not able to give 100% right now.” *Id.* A few minutes later, Jose repeated to Laughlin that the decision “has nothing to do with your -- your health is-sues . . . it has to do with the performance that we need from this position and your inability right now to perform at that level.” *Id.* at 4–5.

At the conclusion of the meeting, according to the County, Laughlin voluntarily resigned from her role at the ASD. But Laughlin insists that she had been terminated. For purposes of this appeal, we assume that Laughlin was terminated.

B. Procedural History

Laughlin sued the County, raising, among other claims, disability discrimination claims under the

following through working from home, not responding.” Doc. 20-10 at 23. But when asked if she was “involved in the decision to terminate Ms. Laughlin,” she replied, “No.” *Id.* at 19. When asked who was involved, she replied, “HR” and “maybe” the people “managing” Laughlin. *Id.* Later, in a sworn declaration, she said she “authorized Ms. Laughlin’s failure of probation after [she] asked multiple people in her chain of command a series of questions related to her performance.” Doc. 20-14 at 1.

ADA, the RA, and the FCRA.⁴ She alleged that the County discriminated against her by terminating her employment due to her medical conditions, which she alleged qualified her as an individual with a disability.

The County moved for summary judgment on the disability discrimination claims. It argued, among other things, that based on the evidence Laughlin presented, a reasonable jury could not find that she had a disability. Alternatively, if Laughlin indeed qualified as having a disability, the County argued that she did not establish that it intentionally discriminated against her due to this disability. The County contended that Laughlin's employment had ended for a legitimate, nondiscriminatory reason—her poor performance at work.

The district court granted the County's motion for summary judgment. The court decided that Laughlin failed to establish that she qualified as having a disability. The court also decided that Laughlin failed to establish intentional discrimination with sufficient direct or circumstantial evidence—in large part because she could not show that the County's stated reason for her termination was pretextual. This is Laughlin's appeal.

II. STANDARD OF REVIEW

We review *de novo* the district court's grant of summary judgment, construing the facts and drawing all reasonable inferences in favor of the nonmoving party.

⁴ Laughlin also raised claims under the Family Medical Leave Act (the "FMLA"). As to these claims, the district court granted summary judgment for the County. On appeal, Laughlin does not challenge the district court's decision regarding her FMLA claims. So, we discuss these claims no further.

Jones v. UPS Ground Freight, 683 F.3d 1283, 1291–92 (11th Cir. 2012). Summary judgment is appropriate if the record gives rise to “no genuine dispute as to any material fact,” such that “the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). A genuine dispute of material fact exists when “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

III. DISCUSSION

According to Laughlin, the County unlawfully terminated her due to her disability. She has raised disability discrimination claims under the ADA, the RA, and the FCRA.

The ADA mandates that “no qualified individual with a disability shall, by reason of such disability . . . be subjected to discrimination by any [public] entity.” 42 U.S.C. § 12132. A public entity is defined to include “any State or local government” and “any department, agency . . . or other instrumentality” thereof. *Id.* § 12131(1). The RA similarly prohibits discrimination against disabled employees by “any program or activity receiving Federal financial assistance.” 29 U.S.C. § 794(a). And the FCRA prohibits discrimination by any qualified employer “against any individual with respect to” their employment “because of such individual’s . . . handicap.” Fla. Stat. § 760.10(1)(a).

Claims brought under these three statutes are analyzed under the same standards. *See Owens v. Governor’s Off. of Student Achievement*, 52 F.4th 1327, 1333–34 (11th Cir. 2022) (“In employment discrimination cases, the standards for determining whether an employer violates the Rehabilitation Act shall be the

standards applied under [the relevant ADA provisions].”); *Holly v. Clairson Indus., L.L.C.*, 492 F.3d 1247, 1255 (11th Cir. 2007) (“[D]isability-dis-crimination claims under the FCRA are analyzed using the same framework as ADA claims.”).

Under all three statutes, to establish that an employer engaged in unlawful discrimination, a plaintiff must show that the employer engaged in intentional discrimination. She “can do this by offering either direct or circumstantial evidence of discrimination.” *Todd v. Fayette Cnty. School Dist.*, 998 F.3d 1203, 1214 (11th Cir. 2021).

First, a plaintiff may present direct evidence of discrimination. “In this Circuit, direct evidence is evidence that, if believed, proves the existence of a fact without inference or presumption.” *Id.* at 1215 (citation modified).

Second, a plaintiff may establish intentional discrimination through circumstantial evidence. A plaintiff may do so in at least two ways. For one, a plaintiff may satisfy the *McDonnell Douglas* burden-shifting framework. *Todd*, 998 F.3d at 1215; see *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). Under this framework, a plaintiff must make a prima facie case that “she (1) is disabled, (2) is a qualified individual, and (3) was discriminated against because of her disability.” *Todd*, 998 F.3d at 1215–16. If she makes this prima facie showing, “the burden of production shifts to the [defendant] to articulate a legitimate, nondiscriminatory reason for its actions.” *Id.* at 1216. If the defendant satisfies this requirement, the burden returns to the plaintiff to show that the stated reason was “merely a pretext for discrimination.” *Id.*

For another, a plaintiff may present “a convincing mosaic of circumstantial evidence that would allow a jury to infer intentional discrimination.” *Lewis v. City of Union City*, 934 F.3d 1169, 1185 (11th Cir. 2019) (citation modified). “A convincing mosaic may be shown by evidence that demonstrates, among other things, (1) suspicious timing, ambiguous statements, and other bits and pieces from which an inference of discriminatory intent might be drawn; (2) systematically better treatment of similarly situated employees; and (3) that the employer’s justification is pretextual.” *Id.* (citation modified).

On appeal, Laughlin argues that the district court erred in granting summary judgment for the County. She says that she came forward with direct evidence of discriminatory intent. Alternatively, she asserts that even if there was no direct evidence, she came forward with sufficient circumstantial evidence of discriminatory intent to survive summary judgment under both the *McDonnell Douglas* burden-shifting framework and the convincing mosaic theory.

We disagree. We hold that Laughlin failed to present any direct evidence of discriminatory intent. She also failed to present sufficient circumstantial evidence of discriminatory intent under either the *McDonnell Douglas* framework or the convincing mosaic theory.

We discuss these three issues in turn.⁵

⁵ We need not decide whether Laughlin qualified as an individual with a disability or whether she suffered an adverse employment action because, even assuming she did, she is unable to show discrimination based on her disability.

A. Laughlin Failed to Present Direct Evidence of Discriminatory Intent.

First, Laughlin failed to present direct evidence of discriminatory intent. As discussed above, “direct evidence is evidence that, if believed, proves the existence of a fact without inference or presumption.” *Todd*, 998 F.3d at 1215. “Only the most blatant remarks, whose intent could mean nothing other than to discriminate on the basis of some impermissible factor constitute direct evidence of discrimination.” *Id.* (citation modified). An example of direct evidence would be a manager saying, “Fire Earley—he is too old.” *Earley v. Champion Int’l Corp.*, 907 F.2d 1077, 1081 (11th Cir. 1990); *see also* *Jefferson v. Sewon America, Inc.*, 891 F.3d 911, 922 (11th Cir. 2018) (treating the manager’s statement that the plaintiff was not hired because the decisionmaker “wanted a Korean in that position” as direct evidence of discrimination).

“By contrast, evidence that merely suggests, but does not prove, a discriminatory motive is not direct evidence.” *Todd*, 998 F.3d at 1215 (citation modified). Admittedly, this is a “rigorous standard.” *Damon v. Fleming Supermarkets of Fla., Inc.*, 196 F.3d 1354, 1359 (11th Cir. 1999). “This court has marked severe limits for the kind of language to be treated as direct evidence of discrimination.” *Jones v. Bessemer Carraway Med. Ctr.*, 151 F.3d 1321, 1323 n.11 (11th Cir. 1998).

For example, in *Wascara v. City of South Miami*, a city clerk raised disability discrimination claims when she was terminated shortly after informing her employer that she needed time off to care for her sick son. 257 F.3d 1238 (11th Cir. 2001). Her employer said, “I

don't want you here. I want you to resign. And if you need an excuse, you can use what's going on at home." *Id.* at 1242 n.2. We explained that this statement did not establish "the existence of discriminatory intent . . . without any inference or presumption." *Id.* (citation modified).

Here, Laughlin argues that she has presented evidence of discriminatory intent by pointing to Jose's statements at the meeting where she learned that her probation had been failed. At the meeting, Jose told Laughlin that the ASD needed "more for this position" than Laughlin was "able to give at this time" and that Laughlin was "not able to give 100% right now." Doc. 28-3 at 3–5. Jose also said she believed it would be "better for [Laughlin] to focus on [herself] and [her] health this—this new year." *Id.* She added that the decision "has nothing to do with your -- your health issues . . . it has to do with the performance that we need from this position and your inability right now to perform at that level." *Id.* at 4–5.

Like the statements by the employer in *Wascura*, Jose's state-ments do not show "without any inference or presumption" that Laughlin was terminated because of her disability. 257 F.3d at 1242 n.2. Jose's statements are ambiguous and open to interpretation. At most, they "merely suggest[], but do[] not prove, a discriminatory motive." *Todd*, 998 F.3d at 1215 (citation modified). They do not meet our "rigorous standard" for direct evidence of discriminatory intent. *Damon*, 196 F.3d at 1359. Thus, the district court

correctly decided that Laughlin failed to present direct evidence.⁶

B. Laughlin Failed to Establish Circumstantial Evidence of Discriminatory Intent Under the *McDonnell Douglas* Burden-Shifting Framework.

Second, Laughlin failed to establish circumstantial evidence of discriminatory intent under the *McDonnell Douglas* burden-shifting framework. As discussed above, a plaintiff proceeding under this framework must make a prima-facie case of discrimination. *Todd*, 998 F.3d at 1215–16. If she makes this prima facie showing, the defendant may “articulate a legitimate, nondiscriminatory reason for its actions.” *Id.* at 1216. Then, the burden returns to the plaintiff to show that the stated reason was “merely a pretext for discrimination.” *Id.*

We now focus on the pretext issue. “A reason cannot be proved to be a pretext for discrimination unless it is shown both that the reason was false, and that discrimination was the real reason.” *Akridge v. Alfa Ins. Cos.*, 93 F.4th 1181, 1196 (11th Cir. 2024) (citation modified). “The pretext inquiry centers on the employer’s beliefs, not the employee’s beliefs and, to be blunt about it, not on reality as it exists outside the decision maker’s head.” *Id.* (citation modified). Further, an “employer may fire an employee for a good reason, a bad reason, a reason based on erroneous facts, or for no reason at all, as long as its action is not

⁶ The district court also decided that Jose’s statements could not serve as direct evidence of discriminatory intent because she was not the decisionmaker who ultimately authorized Laughlin’s failed probation. We need not and do not decide this issue today.

for a discriminatory reason.” *Id.* at 1195 (citation modified). We do not consider whether the stated reasons are “prudent or fair.” *Id.* (citation modified).

Here, even assuming Laughlin made a *prima facie* case, she failed to demonstrate that the County’s stated reason for her probationary failure was pretextual. The County argues, among other things, that ASD staff complained about Laughlin’s frequent lack of communication and that the ASD finance division complained about Laughlin’s failure to timely submit receipts.

Laughlin failed to show that the County’s stated reasons were false. For example, she submitted no evidence indicating that the complaints by ASD staff about her lack of communication were never made. She also points to no evidence that the substance of these complaints was inaccurate. And notably, in a sworn declaration, Laughlin admitted that she did not timely submit receipts to the finance division. Doc. 28-1 at 2–3. Thus, she has not carried her burden to show that the County’s stated reasons for failing her probation were “false, and that discrimination was the real reason.” *Akridge*, 93 F.4th at 1196.

Laughlin attempts to avoid this result by arguing that some of her poor performance issues were minor mishaps that could not serve as genuine reasons for termination. For example, she observes that ASD counselors usually handled receipt submission on their own. The time she failed to timely submit receipts was her “first time” bearing this responsibility, and there was “zero indication” that she “was to be terminated over this issue.” Appellant’s Br. 25. She also notes that Valledor, her supervisor, did not mention the receipt issue in the meetings where her poor

performance was discussed. But the problem with Laughlin's argument is that we do not consider whether an employer's stated reasons for dismissal are "prudent or fair." *Akridge*, 93 F.4th at 1195. An employer may fire an employee for any reason, even "a bad reason," so long as it is "not for a discriminatory reason." *Id.* Thus, Laughlin's argument that her performance issues were minor has no merit. Because she could not show that the performance issues cited by the County were pretextual, she has failed to establish a claim under the *McDonnell Douglas* framework.

C. Laughlin Failed to Establish Circumstantial Evidence of Discriminatory Intent Under the Convincing Mosaic Theory.

Third, Laughlin failed to establish a claim under the convincing mosaic theory. As discussed above, a plaintiff may survive summary judgment by coming forward with "a convincing mosaic of circumstantial evidence that would allow a jury to infer intentional discrimination by the decisionmaker." *Lewis*, 934 F.3d at 1185 (citation modified). There are several categories of evidence that may be considered under a convincing mosaic theory. They include "evidence that demonstrates, among other things, (1) suspicious timing, ambiguous statements, and other bits and pieces from which an inference of discriminatory intent might be drawn; (2) systematically better treatment of similarly situated employees; and (3) that the employer's justification is pretextual." *Id.* (citation modified).

The convincing mosaic theory is different but "not more forgiving" than the *McDonnell Douglas* framework. *McCreight v. AuburnBank*, 117 F.4th 1322,

1335 (11th Cir. 2024). Ultimately, both approaches represent two ways to address “the same question: whether the plaintiff has put forward enough evidence for a reasonable jury to conclude that illegal discrimination occurred.” *Id.* at 1334.

Here, Laughlin argues that she has presented a convincing mosaic of evidence of discriminatory intent. She first points to Jose’s statements at the meeting where she learned that her probation had been failed. As discussed above, Jose said to Laughlin that the ASD needed “more for this position” than Laughlin was “able to give at this time” and that Laughlin was “not able to give 100% right now.” Doc. 28-3 at 3–5. Jose added that the decision “has nothing to do with your -- your health issues . . . it has to do with the performance that we need from this position and your inability right now to perform at that level.” *Id.* at 4–5.

Laughlin then points to 18 additional statements and actions by her colleagues and superiors. This evidence indicates that some ASD staff members made negative comments about Laughlin, poorly communicated with her, and refused to help her on her tasks, especially after she began working from home sometimes because of her illnesses. For example, Laughlin highlights the incident when Stanford questioned her about her accommodation, asking, “But how long do you think you’re going to be working from home? Is that gonna stop soon? Can we stop that soon?” Doc. 20-2 at 5–6.

Taken as a whole, however, we are not persuaded that Laughlin’s evidence can establish a convincing mosaic of intentional discrimination. Instead, her evidence merely indicates that her coworkers were upset

and uncooperative with her when she worked from home. Indeed, they believed she performed poorly after she started working from home. ASD staff members complained to Valledor “at almost every event” because Laughlin would forget to do things and then burden other staff to “make up for what she was not doing.” Doc. 20–5 at 68. For one event, Valledor had to “scramble last minute” because Laughlin failed to ensure that a vehicle was available. *Id.* at 53. After another event, the finance division complained to Valledor about Laughlin’s failure to timely submit receipts. Moreover, Stanford had been told that Laughlin was “not following through working from home, not responding.” Doc. 20–10 at 23. Accordingly, Jose explained to Laughlin that the ASD needed “more for this position” than she was able to perform. Doc. 28-3 at 3.

Thus, Laughlin has failed to make a claim with her circumstantial evidence. “[A] reasonable jury,” examining Laughlin’s mosaic of evidence, could not “conclude that illegal discrimination occurred.” *McCreight*, 117 F.4th at 1335.

IV. CONCLUSION

For the foregoing reasons, we affirm the district court’s grant of summary judgment in the County’s favor.

AFFIRMED.

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Appendix B

[Filed: Sep. 9, 2024]

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:23-cv-23350-KMM

EMILY LAUGHLIN,

Plaintiff,

v.

MIAMI-DADE COUNTY, FLORIDA,

Defendant.

_____/

ORDER

THIS CAUSE came before the Court upon Defendant Miami-Dade County's ("Defendant") Corrected Motion for Summary Judgment and Incorporated Memorandum of Law. ("Mot.") (ECF No. 21). Plaintiff Emily Laughlin ("Plaintiff") filed a Response in opposition. ("Resp.") (ECF No. 29). Defendant filed a Reply. ("Reply") (ECF No. 33). The Motion is now ripe for review.

I. BACKGROUND¹

On February 21, 2022, Miami-Dade County Animal Services Department (“ASD”) hired Plaintiff Emily Laughlin as an ASD Outreach Specialist. *See* Def.’s SOMF ¶ 1; Pl.’s Resp. SOMF ¶ 1. Upon hiring, Plaintiff was required to successfully complete a twelve (12) month probation period before attaining civil service status. *See* Def.’s SOMF ¶ 2; Pl.’s Resp. SOMF ¶ 2. In August 2022, Plaintiff discovered that she had a brain tumor and masses on her thyroid. *See* Compl. ¶ 18. As a result of her medical issues, Plaintiff began experiencing periodic dizzy spells, severe headaches, and episodes of vomiting throughout the workday. *Id.* ¶ 21. Thereafter, Plaintiff met with ASD’s Human Resources Department and to discuss the possibility of a leave of absence, FMLA, or working from home. *See* Pl.’s SOMF ¶ 15. In September 2022, it was agreed that Plaintiff would begin working from home for part of the week. *See* Compl. ¶ 25.

Defendant claims that beginning in December 2022, Plaintiff’s direct supervisor, Ms. Valledor, began receiving complaints about Plaintiff improperly withholding event receipts, exhibiting poor performance, and lack of communication. *See* Def.’s SOMF ¶¶ 20–28. Plaintiff disputes these allegations. *See* Pl.’s Resp.

¹ The facts herein are taken from Plaintiff’s Complaint (“Compl.”) (ECF No. 1), Defendant’s Corrected Statement of Undisputed Material Facts in Support of Motion for Final Summary Judgment (“Def.’s SOMF”) (ECF No. 20), Plaintiff’s Opposition to Defendant’s Statement of Material Facts & Additional Facts (“Pl.’s Resp. SOMF”) (ECF No. 28), Defendant’s Reply to Plaintiff’s Opposition to Statement of Material Facts & Additional Facts (“Def.’s Reply SOMF”) (ECF No. 32), and a review of the corresponding record citations and exhibits.

SOMF ¶¶ 20–28. On December 30, 2022, Ms. Valledor emailed Human Resources Manager, Ms. Sanchez, and Ms. Sanchez’s direct supervisor, Ms. Jose, to inform them that she recommended the failure of Plaintiff’s probationary period of employment. *See* Def.’s SOMF ¶ 29; Pl.’s Resp. SOMF ¶ 29.

On January 4, 2023, Plaintiff received an email request to meet with Ms. Jones, Ms. Sanchez, and Ms. Valledor on January 5, 2023. *See* Compl. ¶ 38. During the January 5, 2023 meeting, Plaintiff was informed that her probation period was being failed. *Id.* ¶ 39. The Parties dispute numerous aspects of the January 5, 2023 meeting. Defendant maintains that Plaintiff’s probation was failed solely due to performance issues and that Plaintiff voluntarily resigned during the meeting. *See* Def.’s SOMF ¶¶ 31–39. Plaintiff asserts that she never voluntarily resigned, but instead was fired because of her disability. *See* Pl.’s Resp. SOMF ¶¶ 37–39; *see also* Compl. ¶ 3.

On August 31, 2023, Plaintiff initiated the instant action against Defendant for damages arising from violations of the Family and Medical Leave Act of 1993 (“FMLA”), the Americans with Disabilities Act of 1990 (“ADA”), and the Rehabilitation Act of 1973 (“RA”). *See generally* Compl. In her Complaint, Plaintiff asserts the following causes of action against Defendant: (1) retaliation under the FMLA (“Count I”); (2) interference under the FMLA (“Count II”); (3) disability discrimination under the ADA (“Count III”); disability discrimination under the FCRA (“Count IV”); and (5) disability discrimination under § 504 of the RA (“Count V”). *See generally id.* Defendant now moves for summary judgment on all five claims asserted in Plaintiff’s Complaint. *See generally* Mot.

II. LEGAL STANDARD

Summary judgment is appropriate where there is “no genuine issue as to any material fact [such] that the moving party is entitled to a judgment as a matter of law.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986) (quoting Fed. R. Civ. P. 56). A genuine issue of material fact exists when “a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). “For factual issues to be considered genuine, they must have a real basis in the record.” *Mann v. Taser Int’l, Inc.*, 588 F.3d 1291, 1303 (11th Cir. 2009) (citation omitted). Speculation cannot create a genuine issue of material fact sufficient to defeat a well-supported motion for summary judgment. *Cordoba v. Dillard’s, Inc.*, 419 F.3d 1169, 1181 (11th Cir. 2005).

The moving party has the initial burden of showing the absence of a genuine issue as to any material fact. *Clark v. Coats & Clark, Inc.*, 929 F.2d 604, 608 (11th Cir. 1991). In assessing whether the moving party has met this burden, a court must view the movant’s evidence and all factual inferences arising from it in the light most favorable to the non-moving party. *Denney v. City of Albany*, 247 F.3d 1172, 1181 (11th Cir. 2001).

Once the moving party satisfies its initial burden, the burden shifts to the non-moving party to present evidence showing a genuine issue of material fact that precludes summary judgment. *Bailey v. Allgas, Inc.*, 284 F.3d 1237, 1243 (11th Cir. 2002); *see also* Fed. R. Civ. P. 56(e). “If reasonable minds could differ on the inferences arising from undisputed facts, then a court should deny summary judgment.” *Miranda v. B & B Cash Grocery Store, Inc.*, 975 F.2d 1518, 1534 (11th

Cir. 1992). But if the record, taken as a whole, could not lead a rational trier of fact to find for the non-moving party, there is no genuine issue for trial, and summary judgment is proper. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

III. DISCUSSION

In its Motion, Defendant moves for summary judgment on all claims alleged in Plaintiff's Complaint. *See generally* Mot. In her Response, Plaintiff states that she "omits briefing in response to claims arising under the FMLA (Counts I and II) and drops same." Resp. at 3 n.2. Accordingly, the Court finds that Defendant is entitled to summary judgment as to Plaintiff's FMLA claims in Counts I and II.²

With respect to the remaining Counts, Defendant contends that it is entitled to summary judgment on Plaintiff's claims under the ADA (Count III), FCRA (Count IV), and RA (Count V) because: (1) Plaintiff cannot establish that she suffered an adverse employment action because she voluntarily resigned; (2) Plaintiff has not met her burden of establishing that she had a disability; (3) Plaintiff has not established either direct or circumstantial evidence of

² While it is not clear what exactly Plaintiff means by stating she "drops" Counts I and II, *see* Resp. at 3 n.2, Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure allows a plaintiff to voluntarily dismiss a claim prior to a defendant's filing of an answer or a motion for summary judgment, or after an answer has been filed where the dismissal bears the signatures of both parties. Fed. R. Civ. P. 41(a)(1)(A)(i). In this case, Defendant has filed both an Answer (ECF No. 7) and a Motion for Summary Judgment (ECF No. 21), and no stipulation of dismissal signed by both parties has been filed. Therefore, the Court finds that Defendant is entitled to summary judgment on Counts I and II.

discrimination; and (4) Plaintiff has not established that the decision to fail her probation was pretextual and discrimination was the real reason. *See* Mot. at 15–20; *see also* Reply. In response, Plaintiff argues that triable issues exist as to: (1) the adverse employment action suffered by Plaintiff and her supposed resignation; (2) the existence and nature of Plaintiff's disability; (3) Plaintiff's theories of direct and circumstantial evidence of discrimination; and (4) the cause of Plaintiff's discrimination. *See generally* Resp.

A. Applicable Law

As noted above, Plaintiff brings claims of disability discrimination under the ADA, FCRA, and RA. *See generally* Compl. All three claims are analyzed under the same standards. *See Harrison v. Sheriff, Holmes Cnty. Fla.*, No. 22-14288, 2024 WL 449374, at *4 (11th Cir. Feb. 6, 2024) (ADA and RA claims analyzed under same standards); *Holly v. Clairson Indus., L.L.C.*, 492 F.3d 1247, 1255 (11th Cir. 2007) (ADA and FCRA claims analyzed using the same framework).

A plaintiff bringing a disability discrimination claim can survive summary judgment by either: “(1) alleging direct discrimination; (2) satisfying the *McDonnell Douglas* burden-shifting framework; or (3) demonstrating a convincing mosaic of circumstantial evidence warranting an inference of intentional discrimination.” *Harrison*, 2024 WL 449374, at *4 (citing *Lewis v. City of Union City (“Lewis I”)*, 918 F.3d 1213, 1220 & n.6 (11th Cir. 2019); *Center v. Sec’y, Dep’t of Homeland Sec.*, 895 F.3d 1295, 1303 (11th Cir. 2018)). Under *McDonnell Douglas*, a plaintiff establishes a *prima facie* case of disability discrimination by showing that: (1) she had a disability or was perceived as

having such a disability; (2) she was qualified for the job; and (3) she suffered an adverse employment action as a result of the disability. *Id.*; *see also Sutton v. Lader*, 185 F.3d 1203, 1207 (11th Cir. 1999). An employee must also demonstrate that her disability was the “but-for” cause of the adverse employment action. *See Akridge v. Alfa Ins. Companies*, 93 F.4th 1181, 1192 (11th Cir. 2024).

Establishing a *prima facie* case creates an initial presumption of discrimination. *See Flowers v. Troup Cnty., Ga., Sch. Dist.*, 803 F.3d 1327, 1336 (11th Cir. 2015). The burden then shifts to the defendant to “articulate a legitimate, nondiscriminatory reason for its actions.” *Lewis I*, 918 F.3d at 1221. “Once the employer advances its legitimate, nondiscriminatory reason, the plaintiff’s *prima facie* case is rebutted and all presumptions drop from the case.” *Flowers*, 803 F.3d at 1336. The burden then shifts back to the plaintiff to demonstrate that the defendant’s reason was a pretext for discrimination. *Lewis I*, 918 F.3d at 1221. As the Eleventh Circuit has explained, “the ultimate question in a discrimination case is whether there is enough evidence to show that the reason for an adverse employment action was illegal discrimination.” *Tynes v. Fla. Dep’t of Juv. Just.*, 88 F.4th 939, 941 (11th Cir. 2023).

B. Adverse Employment Action

Defendant’s first argument is that Plaintiff cannot demonstrate that she suffered an adverse employment action because she voluntarily resigned. *See* Mot. at 9–10, 17; Reply at 1–2. Specifically, Defendant contends that the record evidence shows that Plaintiff voluntarily resigned during the January 5, 2023

meeting and that Defendant accepted Plaintiff's voluntary resignation. Mot. at 9 (citing Def.'s SOMF ¶¶ 37–38). Defendant also points to a January 6, 2023 email from Plaintiff, wherein Plaintiff stated her "intention of withdrawing [her] 'verbal' resignation." Def.'s SOMF ¶ 39; *see also* (ECF No. 20-15) at 2. In response, Plaintiff disputes that she ever voluntarily resigned, and asserts that she never responded to Defendant's statements concerning the possibility of her resigning during the January 5, 2023 meeting. *See* Resp. at 16–17.

Defendant is correct that a voluntary resignation is not an adverse employment action. *See Harrison*, 2024 WL 449374, at *4 n.7 (citing *Hargray v. City of Hallandale*, 57 F.3d 1560, 1570 (11th Cir. 1995)). At the same time, however, "a resignation is not voluntary if it was a constructive discharge forced by an employer's duress or misrepresentation of a material fact." *Id.* Here, the Court concludes that it need not settle this portion of the dispute because Defendant is otherwise entitled to summary judgment on Counts II, IV, and V for the reasons set forth below. *See Mizzell-Bullock v. Seminole Cnty. Pub. Sch.*, No. 6:21-CV-1348-PGB-LHP, 2023 WL 3565439, at *5 n.8 (M.D. Fla. Apr. 13, 2023), *aff'd*, No. 23-11599, 2024 WL 65199 (11th Cir. Jan. 5, 2024).

C. No Direct Evidence of Discrimination

Turning to the issue of direct evidence, Plaintiff maintains that there is direct evidence of disability discrimination in this case for two reasons. *See* Resp. at 4–8. First, Plaintiff argues that there is direct evidence of discrimination based on certain statements made by ASD's then-assistant director, Ms. Jose,

during the January 5, 2023 meeting. *See id.* at 4–7. Specifically, Plaintiff alleges that Ms. Jose stated that Plaintiff’s probation was being failed because “we need more from this position than you’re able to give at this time . . . and I think the fact [is] unfortunately at this time you’re not able to dedicate all of your time to the work.” *Id.* at 5. Additionally, when asked by Plaintiff whether she was being failed “because of [her] health issues,” Ms. Jose purportedly responded, “[n]o, because of your performance . . . because you’re not able to give 100 % right now.” *Id.* Second, Plaintiff argues that there is direct evidence of discrimination based on Plaintiff’s testimony that “numerous colleagues and superiors began ignoring her work emails and refusing to help her once she began working partly from home.” *Id.* at 7.

“[D]irect evidence is evidence that, if believed, proves the existence of a fact without inference or presumption.” *Todd v. Fayette Cnty. Sch. Dist.*, 998 F.3d 1203, 1215 (11th Cir. 2021) (internal quotation marks and citation omitted). “Only the most blatant remarks, whose intent could mean nothing other than to discriminate on the basis of some impermissible factor constitute direct evidence of discrimination.” *Id.* On the other hand, “evidence that merely suggests, but does not prove, a discriminatory motive is not direct evidence.” *Id.* (internal quotation marks and citation omitted). Here, even accepted as undisputed, the Court finds that Ms. Jose’s alleged comments and Plaintiff’s purported interactions with her coworkers and supervisors do not amount to direct evidence of discrimination.

First, the statements Plaintiff attributes to Ms. Jose during the January 5, 2023 meeting “are vague

and are not a clear indication of discriminatory animus.” *Bass v. Lockheed Martin Corp.*, 287 F. App’x 808, 811 (11th Cir. 2008). Thus, by requiring the factfinder to infer that Ms. Jose’s statements arose out of a discriminatory animus, Ms. Jose’s alleged comments do not rise to the level of direct evidence. *See id.* In fact, Plaintiff effectively concedes that Ms. Jose’s alleged statements are not direct evidence of discrimination by arguing in her Response that “Plaintiff certainly *understood that the meaning of the words* spoken to her by Ms. Jose meant that she was being fired for her disability. A jury *could* reach the same conclusion.” Resp. at 8. (emphasis added).

Courts in this Circuit routinely refuse to “give great weight . . . to language that is, at best, only circumstantial evidence” of discrimination, because doing so “blurs the important distinction between circumstantial evidence and direct evidence for *prima facie* cases.” *Jones v. Bessemer Carraway Med. Ctr.*, 151 F.3d 1321, 1323 n.11 (11th Cir. 1998); *see also Dowdell-McElhaney v. Glob. Payments Inc.*, No. 23-10334, 2024 WL 2796976, at *5 (11th Cir. May 31, 2024) (“Although Dowdell-McElhaney argues on appeal that there is direct evidence of discrimination, she has not pointed to any ‘blatant remark’ made by TSYS ‘whose intent could mean nothing other than’ that its decision to not assign her to the First Party Fraud Team was based on her age.” (quoting *Jefferson v. Sewon Am., Inc.*, 891 F.3d 911, 922 (11th Cir. 2018))). Indeed, “faced with far more damning evidence, the Eleventh Circuit has repeatedly cast aside claims of direct discrimination.” *Harrell v. City of Opa-Locka*, No. 20-21927-CIV, 2022 WL 898565, at *16 (S.D. Fla. Mar. 28, 2022) (collecting cases); *see also Walker v. St. Joseph’s/Candler Health*

Sys., Inc., 506 F. App'x 886, 888 n.1 (11th Cir. 2013) (finding no direct evidence of discrimination where decisionmaker told plaintiff she “should go back to the night shift” to “be with her own kind” because “the ‘your own kind’ statement does not prove race or gender discrimination without inference”); *Carter v. Three Springs Residential Treatment*, 132 F.3d 635, 642 (11th Cir. 1998) (finding no direct evidence of discrimination where decisionmaker admitted she had “a bias against blacks” and “found that they were difficult for her to trust or get along with” because the statements “could have been expressing a desire to get past such prejudices”). For this same reason, the Court concludes that Plaintiff's testimony concerning certain colleagues and supervisors ignoring her once she began working partly from home does not amount to direct evidence of discrimination. *See Resp.* at 7.

Second, the Court agrees with Defendant that, even if discriminatory animus could be imputed to Ms. Jose based on the alleged statements, Plaintiff's direct evidence argument fails because Ms. Jose was not the decisionmaker in this case. *See Bass*, 287 F. App'x at 811 (finding no evidence of direct discrimination where individual who allegedly made discriminatory comments “was not the decisionmaker” and plaintiff's “attempts to make [that individual] out to be the effective decisionmaker [were] based only on speculation”). As the Eleventh Circuit has explained, “remarks by non-decisionmakers or remarks unrelated to the decisionmaking process itself are not direct evidence of discrimination.” *Harris v. Pub. Health Tr. of Miami-Dade Cnty.*, 82 F.4th 1296, 1301 (11th Cir. 2023) (quoting *Standard v. A.B.E.L. Servs., Inc.*, 161 F.3d 1318, 1330 (11th Cir. 1998)). A decisionmaker is “the

one who ultimately fired, demoted, or punished the plaintiff.” *Id.* Here, the record demonstrates that it was Director Stanford, not Ms. Jose, who ultimately signed and authorized Plaintiff’s failed probation. *See* Reply at 5–6.

Accordingly, the Court finds that Plaintiff has failed to meet her burden of showing any direct evidence of discrimination in this case.

D. Plaintiff Has Not Established That She Had a Disability

As noted above, when there is a lack of direct evidence of discrimination, a Plaintiff can survive summary judgment by either (1) satisfying the *McDonnell Douglas* burden-shifting framework or (2) demonstrating a convincing mosaic of circumstantial evidence warranting an inference of intentional discrimination. *See Harrison*, 2024 WL 449374, at *4. “In order for any ADA claim to succeed, the claimant must show that her condition of impairment rises to the level of a disability.” *Carruthers v. BSA Advert., Inc.*, 357 F.3d 1213, 1215–16 (11th Cir. 2004). The ADA defines a “disability” as “(A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment.” 42 U.S.C. § 12102(1); *see also Munoz v. Selig Enterprises, Inc.*, 981 F.3d 1265, 1272 (11th Cir. 2020). “An employee must establish that [s]he had a disability or was regarded as having a disability at the time of the adverse employment action about which [s]he is complaining.” *Wood v. Gilman Bldg. Prod. Inc.*, 769 F. App’x 796, 800 (11th Cir. 2019) (emphasis added). To determine whether a plaintiff had a

qualifying disability, courts apply a three-step analysis: (1) consider whether the alleged disability was a mental or physical impairment; (2) identify the life activity upon which the plaintiff relies and determine whether it constitutes a major life activity; and (3) determine whether the impairment substantially limited the major life activity. *Hudson v. Tyson Farms, Inc.*, 769 F. App'x 911, 915 (11th Cir. 2019) (citing *Bragdon v. Abbott*, 524 U.S. 624, 631 (1998)).

Here, Plaintiff alleges that she had a qualifying disability because “[h]er brain tumor and related ailments constituted a mental or physical impairment which . . . substantially limited one or more major life activities.” Compl. ¶¶ 68, 77, 89. Specifically, Plaintiff claims that she suffered from periodic dizzy spells, headaches, ear ringing, and episodes of vomiting throughout the workday. *See* (ECF No. 20-1) at 42–43, 47; *see also* Compl. ¶ 21. Upon review, the Court finds that even if Plaintiff has sufficiently demonstrated that her brain tumor and related ailments constituted a mental or physical impairment, Plaintiff has failed to demonstrate that any such impairment substantially limited one or more major life activities. *See Hudson*, 769 F. App'x at 916 (“A physical impairment, standing alone, however, is not necessarily a disability as contemplated by the ADA.”).

As a threshold matter, Plaintiff does not identify any “major life activity” in which she was substantially limited at the time of her failed probation. *See generally* Compl.; Resp. Major life activities include “caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.”

42 U.S.C. § 12102(2)(A). The ADA also defines major life activities to include “functions of the immune system” and “neurological, brain, . . . [and] endocrine . . . functions.” *Id.* § 12102(2)(B). In this case, Plaintiff merely asserts that “[her] ailments unfortunately involve a number of such functions.” Resp. at 14. However, Plaintiff testified during her deposition that she was not having physical difficulty performing her duties during her probation period and was able to physically perform her job responsibilities:

Question: Were you having any difficulty performing?

Answer: Not that I saw within myself, no.

Question: Was there any part of your job you couldn't do?

Answer: No.

(ECF No. 20-1) at 79.

Plaintiff's conclusory and barebones allegations that her brain tumor and related ailments “involved a number of” major life activities, without specifying any such activities or offering evidence to support such a finding, is insufficient at the summary judgment stage. *See Holton v. First Coast Serv. Options, Inc.*, 703 F. App'x 917, 921 (11th Cir. 2017) (“[C]onclusory allegations such as these are not enough to withstand summary judgment, and Holton provided insufficient evidence to establish her disability.”); *see also Thomas v. Comcast Cable Commc'ns Mgmt., LLC*, No. 1:19-CV-01953-CMS, 2020 WL 13850733, at *11 (N.D. Ga. Nov. 24, 2020) (summary judgment appropriate where plaintiff “failed to meet his burden to show that

he suffers from a condition which makes him unable to perform a major life activity, or significantly restricts his ability to perform a major life activity”).

Plaintiff also fails to provide any evidence indicating that she was “substantially limited” in any major life activity. “To qualify as disabled under the ADA, the employee must be substantially limited in a major life activity ‘as compared to most people in the general population.’” *Munoz*, 981 F.3d at 1272 (quoting 29 C.F.R. § 1630.2(j)(1)(ii)). Plaintiff contends in her Response that she “has produced a significant number of medical records” establishing that she had a qualifying disability at the time her probation was failed. Resp. at 14. However, as Defendant points out, the only relevant medical record in evidence appears to be a note provided by Plaintiff to Defendant’s Human Resources Manager dated October 5, 2022, wherein Advanced Practice Registered Nurse Jessica Roldan stated that Plaintiff had undefined “complex medical issues” and recommended a leave of absence from October 5, 2022 to November 5, 2022. *See* (ECF No. 20-8).

Taken together, the Court finds that Plaintiff has failed to come forward with evidence establishing she was disabled or perceived as disabled at the time her probation was failed. *See Holton*, 703 F. App’x at 920 (11th Cir. 2017) (finding that plaintiff failed to establish she was disabled under the ADA when “[t]he only evidence she offered of her disability was a two-sentence letter from her chiropractor, which did not provide enough information to establish that she was disabled”); *Munoz*, 981 F.3d at 1273 (11th Cir. 2020) (holding that district court correctly granted summary judgment on ADA claims where record included

evidence that plaintiff's health was impaired, but did "not contain evidence of the timing, frequency, and duration of [plaintiff's] impairments"); *Thomas*, 2020 WL 13850733, at *11 (finding defendant entitled to summary judgment where plaintiff "cite[d] no evidence" or medical records "from which [the] Court could find that Plaintiff was substantially limited in his ability to breathe").

Accordingly, because Plaintiff has failed to come forward with evidence that she was disabled or perceived as disabled at the time of her failed probation, Plaintiff has failed to establish a *prima facie* case of disability discrimination. *See Wood*, 769 F. App'x at 801.

E. No Other Evidence of Discrimination

Further, even if Plaintiff was able to establish that she had a disability, the Court finds that Defendant is nevertheless entitled to summary judgment on Counts III, IV, and V because Plaintiff cannot establish that she was subjected to unlawful discrimination because of her disability.

A plaintiff may establish a claim under the ADA by presenting *prima facie* case through circumstantial evidence of discrimination. *See Wascara v. City of S. Miami*, 257 F.3d 1238, 1242 (11th Cir. 2001). A plaintiff may meet her *prima facie* case by pointing to "comparators," that is, similarly situated individuals outside her protected class who were treated more favorably than she was. *See Lewis I*, 918 F.3d at 1217. Alternatively, a plaintiff may avoid summary judgment by presenting "a convincing mosaic of circumstantial evidence that would allow a jury to infer intentional discrimination by the decisionmaker." *Smith v.*

Lockheed-Martin Corp., 644 F.3d 1321, 1328 (11th Cir. 2011) (internal quotation marks and citation omitted). A “convincing mosaic” may be shown by evidence that demonstrates “(1) suspicious timing, ambiguous statements . . . and other bits and pieces from which an inference of discriminatory intent might be drawn, (2) systematically better treatment of similarly situated employees, and (3) that the employer’s justification is pretextual.” *Lewis v. City of Union City* (“*Lewis II*”), 934 F.3d 1169, 1185 (11th Cir. 2019) (internal quotation marks and citations omitted).

Here, Plaintiff concedes that there are no relevant “comparators” in this case because Plaintiff was “a one-of-one” while working for Defendant and there are “no current ASD employees on reasonable accommodation plans.” Resp. at 8. However, Plaintiff argues that summary judgment is not appropriate because she has presented “convincing mosaic” of circumstantial evidence of discrimination. *Id.* at 8–11.

Having reviewed Plaintiff’s Response and the evidence in the record, the Court finds that Plaintiff has failed to present a “convincing mosaic” of circumstantial evidence to support her discrimination claims. Instead, Plaintiff offers only anecdotal evidence of instances in which she believes that she was not treated well by various coworkers and superiors, combined with the fact that Plaintiff was the only employee working from home. *See id.* at 9–11. Plaintiff also misstates key dates while attempting to demonstrate the “suspicious timing” of her failure of probation. For example, Plaintiff claims that “[o]n the last day before Plaintiff reached the one-year mark from receiving her employment letter—and could have been beyond the probationary period—she was terminated.” *Id.* at

11. However, it is undisputed that Plaintiff began her employment with Defendant on February 21, 2022, and her probation was terminated on January 5, 2023. *See* Reply at 6. This falls well short of showing systematically better treatment of similarly situated employees or otherwise supporting an inference of intentional discrimination by a decisionmaker. *See Jennings v. R.T.G. Furniture Corp.*, No. 8:20-CV-2902-TPB-AEP, 2022 WL 4955385, at *5 (M.D. Fla. Oct. 4, 2022). Accordingly, Plaintiff has failed to create an issue of fact under the “convincing mosaic” approach.

Finally, Plaintiff has failed to demonstrate that Defendant’s legitimate, non-discriminatory reasons for Plaintiff’s failed probation were a pretext for disability discrimination. “Once a defendant has offered a legitimate, non-discriminatory reason for an adverse employment action, the employee must show that the reason was a pretext and that unlawful discriminatory animus was the actual motivation.” *Reed v. Forney Indus., Inc.*, 800 F. App’x 782, 786 (11th Cir. 2020) (quoting *Chapman v. AI Transp.*, 229 F.3d 1012, 1024–25 (11th Cir. 2000)). “A reason is not pretext for discrimination unless it is shown both that the reason was false, and that discrimination was the real reason.” *Brooks v. Cnty. Comm’n of Jefferson Cnty., Ala.*, 446 F.3d 1160, 1163 (11th Cir. 2006) (internal quotation marks and citations omitted).

Here, Defendant has proffered legitimate, non-discriminatory reasons for Plaintiff’s failed probation. *See* Def.’s SOMF ¶¶ 20–28. Specifically, Defendant cites to multiple instances of Plaintiff’s poor performance throughout her probationary period. *Id.*; *see also* Reply at 7–10. In her Response, Plaintiff claims that “Defendant’s allegations of performance issues

are false” and “[t]he reality is that Plaintiff was fired because she was disabled.” Resp. at 12. However, “when plaintiffs challenge dismissal for poor performance, [courts] must be careful not to allow them simply to litigate whether they are in fact, good employees.” *Reed*, 800 F. App’x at 786 (cleaned up).

In this case the record amply supports Defendant's account of Plaintiff's failed probation. It is also devoid of any evidence of discriminatory animus. *See id.* In the absence of any evidence of discriminatory animus, Plaintiff's subjective views regarding her performance and the reasons for her failed probation are insufficient to establish pretext. *See Lopez v. AT&T, Corp.*, 457 F. App’x 872 874 (11th Cir. 2012) (“The inquiry into whether an employer’s proffered reasons were merely pretextual centers on the employer’s beliefs, not the beliefs of the employee or even objective reality.”).

Accordingly for the reasons set forth above, the Court concludes that Plaintiff has failed to present evidence creating a genuine issue of material fact as to her claims of disability discrimination under the ADA FCRA and RA and Defendant is therefore entitled to summary judgment as to Counts III, IV, and V of Plaintiff's Complaint.

IV. CONCLUSION

UPON CONSIDERATION of the Motion, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that Defendant's Corrected Motion for Summary Judgment (ECF No. 21) is GRANTED. The Clerk of Court is INSTRUCTED to CLOSE this case. All pending motions, if any, are DENIED AS MOOT.

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DONE AND ORDERED in Chambers at Miami
Florida this 9th day of September 2024.

/s/ K. Michael Moore
K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

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Appendix C

[Filed: Mar. 19, 2026]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-13284
Non-Argument Calendar

EMILY LAUGHLIN,

Plaintiff-Appellant,

versus

MIAMI-DADE COUNTY, FLORIDA,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:23-cv-23350-KMM

ON PETITION FOR REHEARING AND PETITION
FOR REHEARING EN BANC

Before JILL, PRYOR, LAGOA, and WILSON, Circuit
Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. FRAP 40. The Petition for Panel Rehearing also is DENIED. FRAP 40.