

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

JUDY G. MORRIS

PLAINTIFF

v.

CIVIL ACTION NO. 3:96CV-128-S

FISCAL COURT OF OLDHAM COUNTY, KENTUCKY;
JOHN W. BLACK; and BRENT LIKINS

DEFENDANT

MEMORANDUM OPINION

This matter is before the court on the motion of the defendant, Brent Likins, for summary judgment. This case arises from the alleged sexual harassment of the plaintiff, Judy Morris, by her employer, Fiscal Court of Oldham County (“Fiscal Court”) and by her supervisors, John W. Black and Brent Likins. For the reasons set forth below, the motion of the defendant will be granted.

FACTS

Morris has been employed by the Oldham County Road Department for twelve years, working as chief clerk since 1993. In 1994, Likins was named as Oldham County Engineer and became Morris’ supervisor. Likins’ first evaluation of Morris in November 1994, made within three weeks of beginning his new job, gave her a rating of “excellent.” In an evaluation made in March 1995, Likins rated her performance as “very good,” stating that she was a “very efficient and courteous employee.” When asked by Morris about the lowered rating in the evaluation, Likins allegedly proposed to improve it if Morris would grant sexual favors to him. Morris also claims that Likins created a hostile work environment by repeatedly making offensive sexual jokes and innuendos.

Morris reported these incidents to Black, the County Judge/Executive. In May 1995, Black instructed Likins to reduce contact with Morris and to communicate to her only through Jim Lentz,

a county road supervisor. In June, Black transferred Likins from the Road Department office to the courthouse building and gave him a different secretary. Then, in August, the county initiated an investigation of Likins' conduct, reiterating that he was to have no contact with the plaintiff. The county terminated Likins' employment in August 1996.

Morris claims that since reporting his behavior to Black, Likins has retaliated, maintaining a hostile work environment by threatening and harassing her. She also claims that Black and the Fiscal Court failed to take appropriate remedial action. In September 1995, plaintiff began experiencing anxiety attacks and went on sick leave. She returned to work for a few months, but has been on medical leave since May 1996. The county is holding her job open.

Morris brought claims against the defendants in their individual and representative capacities for *quid pro quo* sexual harassment and a hostile work environment under Title VII and the Kentucky Civil Rights Act. Morris also claimed intentional infliction of emotional distress and outrageous conduct on the part of each defendant. This court permitted Morris to amend her complaint to include a claim for equal protection violations under §1983 against Black and Likins in their individual capacities and granted the defendants' motions for summary judgment as to the Title VII, Kentucky Civil Rights Act, and outrageous conduct claims. The court also granted Black's motion for summary judgment on the §1983 claim. Therefore, the only remaining claim is the §1983 claim against Likins.

DISCUSSION

Summary judgment is appropriate if “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). A party’s failure to establish an element of proof essential to his case and upon which he will bear the burden of proof at trial constitutes a failure to establish a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986).

To prove a violation of the equal protection clause under §1983, a plaintiff must prove the same elements that are required to prove a claim under Title VII. *Jachyra v. Southfield*, 97 F.3d 1452, 1996 WL 520795 *3 (6th Cir. 1996). This court has ruled that Morris is unable to meet her burden of proving sexual harassment, a hostile work environment or retaliation under Title VII. She is, therefore, unable to meet her burden of proving a violation of the equal protection clause. Accordingly, this court will grant Likins’ motion for summary judgment on Morris’ §1983 claim. A separate order will be entered herein this date in accordance with this opinion.

This ____ day of _____, 1998.

CHARLES R. SIMPSON III, CHIEF JUDGE
UNITED STATES DISTRICT COURT

cc: Counsel of Record

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ORDER

Motion having been made by the defendant Brent Likins, and for the reasons set forth in the memorandum opinion entered herein this date and the court being otherwise sufficiently advised, **IT IS HEREBY ORDERED AND ADJUDGED** that the motion for summary judgment by the defendant, Brent Likins, is **GRANTED**. The plaintiff's complaint against Likins is hereby **DISMISSED** with prejudice. The court having disposed of all matters in this case, this is a final and appealable order.

IT IS SO ORDERED this ____ day of _____, 1998.

CHARLES R. SIMPSON III, CHIEF JUDGE
UNITED STATES DISTRICT COURT

cc: Counsel of Record