

2019 WL 11608273

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United States District Court, E.D. Virginia.

MONAL PATEL, Plaintiff,

v.

ICF INCORPORATED, LLC Defendant.

Civil Action No. 1:19-cv-1016

|
Filed 12/16/2019

ORDER

CLAUDE M. HILTON UNITED STATES DISTRICT
JUDGE

*1 THIS MATTER comes before the Court on Defendant ICF Incorporated LLC's Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6).

Plaintiff Monal Patel, proceeding *pro se*, filed a complaint for “employment discrimination” alleging claims under Title VII of the Civil Rights Act of 1964, the Equal Pay Act, the Virginia Equal Pay Act, the District of Columbia Human Rights Act, the Lilly Ledbetter Fair Pay Act, Executive Orders 11246 and 13665, the Administrative Procedures Act and Federal Acquisition Regulations, the False Claims Act, and Defamation per se. Defendant moved to dismiss the complaint for failure to state a claim, and on October 4, 2019, the Court granted Defendant's motion but provided Plaintiff 21 days to file an amended complaint.

On October 28, 2019, Plaintiff filed an amended complaint against Defendant.¹ Plaintiff's amended complaint does not contain numbered counts, but does generally allege that Defendant violated Title VII, violated Executive Orders 11246 and 13665, and defamed Plaintiff. Defendant has moved to dismiss Plaintiff's amended complaint, arguing that Plaintiff's Title VII claim is time barred, that no private right of action exists under Executive Orders 11246 and 13665, and that Plaintiff's defamation claim is fatally flawed.

¹ Plaintiff's original complaint contained a second defendant, the Federal Deposit Insurance Corporation. Plaintiff's amended complaint, titled

“Amended Complaint Against ICF Inc., LLC” no longer lists any claims or allegations against the FDIC.

A motion to dismiss tests the sufficiency of the complaint. See [Republican Party of N.C. v. Martin](#), 980 F.2d 943, 952 (4th Cir. 1992). On a Rule 12(b)(6) motion to dismiss, a court must accept all well-pleaded facts as true and construe those facts in the light most favorable to the plaintiff. See [Ashcroft v. Iqbal](#), 556 U.S. 662, 678 (2009); [Reyes v. Waples Mobile Home Park Ltd. P'ship](#), 903 F.3d 415, 423 (4th Cir. 2018). The complaint must provide a short and plain statement showing that the pleader is entitled to relief, Fed. R. Civ. P. 8(a)(2), and it must state a plausible claim for relief to survive a motion to dismiss. See [Iqbal](#), 556 U.S. at 679; [Bell Atl. Corp. v. Twombly](#), 550 U.S. 544, 570 (2007).

Defendant first argues that Plaintiff's Title VII claim is untimely because Plaintiff failed to file a charge with the Equal Employment Opportunity Commission (“EEOC”) within 300 days of his last day of employment with Defendant, as required by 42 U.S.C. § 2000e-5(e). In his amended complaint, Plaintiff alleges that he sent the EEOC an email indicating that he wanted to file a charge, but that the EEOC never “followed up” and that was “not [his] problem.” Plaintiff fails to demonstrate that he filed a charge with the EEOC within 300 days of his last day of employment with Defendant, and his Title VII claim is therefore time-barred.

Defendant next argues that Plaintiff's claims under Executive Orders 11246 and 13665 fail because there is no private right of action under those orders. In his opposition to Defendant's motion, Plaintiff cites no authority for the proposition that either Executive Order 11246 and 13665 contain any private right of action. As a general rule, there is no private right of action to enforce obligations imposed by executive orders. See [Chen Zhou Chai v. Carroll](#), 48 F.3d 1331, 1338 (4th Cir. 1995). Plaintiff's claims under Executive Orders 11246 and 13665 must be dismissed.

*2 Plaintiff's again alleges a claim for defamation per se against Defendant, relying on two email messages sent to him by an ICF employee. Plaintiff alleges that the messages “undermine[d] [Plaintiff's] expertise and reputation,” but fails to allege that the message was communicated to any non-ICF employee. Even assuming that either email message contains

a defamatory statement, both messages are privileged because they were only communicated to other ICF employees. See Larimore v. Blaylock, 528 S.E.2d 119, 121 (Va. 2000) (recognizing that communications between co-employees and employers are privileged).

The Court has liberally reviewed Plaintiff's pro se amended complaint, Jehova v. Clarke, 798 F.3d 169, 176 (4th Cir. 2015), which suffers from the same deficiencies as the original. For the foregoing reasons, it is hereby

ORDERED that Defendant ICF Incorporated LLC's Motion to Dismiss is GRANTED, and this case is dismissed.

Alexandria, Virginia

All Citations

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