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GERARDO TREJO *v.* YALE NEW
HAVEN HOSPITAL, INC.
(AC 45207)

Bright, C. J., and Elgo and Clark, Js.

Syllabus

The plaintiff, a former resident in the defendant hospital's vascular surgery residency program, sought to recover damages for alleged gender and sexual orientation discrimination and for retaliation in violation of the Connecticut Fair Employment Practices Act (§ 46a-51 et seq.). The defendant filed a motion for summary judgment, arguing, *inter alia*, that on the basis of the plaintiff's own deposition testimony and other evidence, there was no genuine issue of material fact and that the defendant was entitled to judgment as a matter of law. After hearing oral arguments, the trial court issued a memorandum of decision granting the defendant's motion, concluding that the plaintiff failed, as a matter of law, to meet his burden to establish a *prima facie* case of employment discrimination on the basis of his gender or sexual orientation. The court also found that, even if the plaintiff had satisfied his burden of establishing a *prima facie* case, the defendant presented extensive, uncontroverted evidence of a legitimate, nondiscriminatory reason for his discharge—namely, the plaintiff's persistent performance difficulties and low standardized exam scores—that the plaintiff could not show was pretextual. The court also rejected the plaintiff's retaliation claim on the basis that there was no evidence that the plaintiff complained about sexual orientation or gender discrimination before he received his notice that his employment had been terminated. On the plaintiff's appeal to this court, *held* that the judgment of the trial court was affirmed; the trial court aptly addressed the arguments raised in this appeal, and this court adopted the trial court's thorough and well reasoned memorandum of decision as a proper statement of the facts and the applicable law on the issues.

Argued February 9—officially released April 18, 2023

Procedural History

Action to recover damages for, *inter alia*, alleged employment discrimination, and for other relief, brought to the Superior Court in the judicial district of Hartford, where the court, *Rosen, J.*, granted the defendant's motion for summary judgment and rendered judgment thereon, from which the plaintiff appealed to this court. *Affirmed.*

James V. Sabatini, with whom, on the brief, was *Zachary T. Gain*, for the appellant (plaintiff).

Sarah R. Skubas, with whom, on the brief, was *Jessica L. Murphy*, for the appellee (defendant).

Opinion

PER CURIAM. In this employment discrimination action, the plaintiff, Gerardo Trejo, appeals from the summary judgment rendered by the trial court in favor of his former employer, the defendant, Yale New Haven Hospital, Inc. On appeal, the plaintiff claims that the court erred in granting the defendant's motion for summary judgment. We affirm the judgment of the trial court.

On or about June 20, 2017, the plaintiff filed a complaint against the defendant with the Connecticut Commission on Human Rights and Opportunities (commission). On February 20, 2019, the commission released its jurisdiction over the plaintiff's complaint, and the plaintiff commenced this action in the Superior Court on May 20, 2019. In his three count complaint brought pursuant to the Connecticut Fair Employment Practices Act (act), General Statutes § 46a-51 et seq., the plaintiff claimed that the defendant violated the act by discriminating against him on the basis of his gender and sexual orientation and by retaliating against him for making complaints regarding sexual orientation and gender discrimination. In support of his claims, the plaintiff alleged, inter alia, that on or about July 1, 2013, he began as a resident in the defendant's vascular surgery residency program. He alleged that he is a homosexual man and that Timur Sarac, the defendant's chief of vascular surgery, was aware of the plaintiff's sexual orientation and "treated [him] differently than other residents, especially heterosexual male residents." The plaintiff alleged that, in November, 2015, he emailed Rosemary Fisher, a liaison between the residency program and the program's accreditation agency, and "complained about how he was being treated in his residency."

The plaintiff further alleged that, starting in 2016, the defendant "placed [him] on a remediation program." He alleged that, between June, 2016, and April, 2017, he met with Stephen Huot, a medical doctor employed by the defendant, on at least five occasions and that, during each meeting, the plaintiff stated "that he believed that he was being treated discriminatorily and that . . . Sarac had a preference toward the heterosexual male residents in the operating room." Specifically, the plaintiff averred that Sarac once asked him during a surgery if he had ever played T-ball as a kid and then laughed at the plaintiff and remarked, "of course you wouldn't." The plaintiff also alleged that Jonathan Cardella, a medical doctor employed by the defendant, behaved in a homophobic manner toward him by, inter alia, "regularly shout[ing] homophobic slurs during surgery." The plaintiff alleged that, on or about April 12, 2017, the defendant presented him with a letter stating that his contract would end on June 30, 2017. He alleged that his employment was in fact terminated on or about

June 30, 2017. As a result, he alleged that the defendant violated the act by discriminating against him on the basis of gender and sexual orientation and by retaliating against him for making complaints regarding sexual orientation and gender discrimination in the workplace.

On August 19, 2019, the defendant filed its answer and special defenses to the plaintiff's complaint. On April 30, 2021, the defendant filed a motion for summary judgment and an accompanying memorandum of law arguing, *inter alia*, that on the basis of the plaintiff's own deposition testimony and other evidence, there was no genuine issue of material fact and that the defendant was entitled to judgment as a matter of law. In particular, the defendant argued that during the plaintiff's third year of his residency, "he was placed on a remediation plan to address clinical, academic, and administrative deficiencies. Various physicians found the plaintiff's performance to be very concerning, including many whom the plaintiff does not allege harbor any discriminatory animus. The plaintiff's deficiencies included repeatedly scoring very low on national standardized tests that were objectively prepared and scored by a third party. Ultimately, after nearly four years in the residency training program, the [defendant] dismissed the plaintiff from the program due to his persistent performance issues."

The defendant argued that the plaintiff's discrimination claims failed under the *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973) (*McDonnell Douglas*) burden shifting framework,¹ which our courts have employed in assessing claims of discrimination under the act, because "(1) the plaintiff cannot establish the fourth prong of his *prima facie* case requiring the existence of evidence giving rise to an inference of discrimination; and (2) there is no evidence that the [defendant's] legitimate nondiscriminatory reason for the plaintiff's dismissal—repeated performance deficiencies—was merely a pretext for discrimination." As to the plaintiff's retaliation claim, the defendant argued that the claim fails because the plaintiff "cannot establish . . . a causal connection between his protected activity and his dismissal, as his performance deficiencies were evaluated and addressed long before he engaged in protected activity" and because "there is no evidence that the [defendant's] nonretaliatory reason for his dismissal is pretextual."

On August 16, 2021, the plaintiff filed his objection to the defendant's motion for summary judgment, in which he argued that genuine issues of material fact existed, and, consequently, the defendant's motion should be denied. On September 3, 2021, the defendant filed its reply.

The court heard oral arguments on the defendant's motion for summary judgment on October 25, 2021. On December 14, 2021, the court issued a memorandum

of decision granting the defendant's motion. In its decision, the court concluded that the plaintiff failed, as a matter of law, to meet his burden to establish a prima facie case of employment discrimination on the basis of his gender or sexual orientation. The court also found that, even if the plaintiff had satisfied his burden of establishing a prima facie case, the defendant presented extensive, uncontroverted evidence of a legitimate, non-discriminatory reason for his discharge—namely, the plaintiff's persistent performance difficulties and low standardized exam scores—that the plaintiff could not show was pretextual. The court also rejected the plaintiff's retaliation claim on the basis that there was no evidence that the plaintiff complained about sexual orientation or gender discrimination before he received his nonrenewal notice. The plaintiff timely appealed from the court's judgment.

On appeal, the plaintiff claims that the court improperly granted the defendant's motion for summary judgment. On the basis of our examination of the record, and the briefs and arguments of the parties, and applying the well established principles that govern our review of a court's decision to grant a motion for summary judgment in cases alleging violations of the act; see *Stubbs v. ICare Management, LLC*, 198 Conn. App. 511, 520–22, 233 A.3d 1170 (2020); we conclude that the judgment of the trial court should be affirmed. See, e.g., *Luth v. OEM Controls, Inc.*, 203 Conn. App. 673, 252 A.3d 406 (2021). Because the court's memorandum of decision aptly addresses the plaintiff's arguments, we adopt its thorough and well reasoned decision as a proper statement of the facts and applicable law on these issues. See *Trejo v. Yale New Haven Hospital, Inc.*, Superior Court, judicial district of Hartford, Docket No. CV-19-6112326-S (December 14, 2021) (reprinted at 218 Conn. App. , A.3d). It would serve no useful purpose to repeat the discussion contained therein. See, e.g., *U.S. Bank Trust, N.A. v. Dallas*, 213 Conn. App. 483, 487, 278 A.3d 1138 (2022); *Luth v. OEM Controls, Inc.*, supra, 203 Conn. App. 677; *Phadnis v. Great Expression Dental Centers of Connecticut, P.C.*, 170 Conn. App. 79, 81, 153 A.3d 687 (2017).

The judgment is affirmed.

¹ Under the *McDonnell Douglas* burden shifting analysis, the employee must "first make a prima facie case of discrimination. . . . The employer may then rebut the prima facie case by stating a legitimate, nondiscriminatory justification for the employment decision in question. . . . The employee then must demonstrate that the reason proffered by the employer is merely a pretext and that the decision actually was motivated by illegal discriminatory bias." (Internal quotation marks omitted.) *Rossova v. Charter Communications, LLC*, 211 Conn. App. 676, 684–85, 273 A.3d 697 (2022). "In order for the employee to first make a prima facie case of discrimination, the plaintiff must show: (1) the plaintiff is a member of a protected class; (2) the plaintiff was qualified for the position; (3) the plaintiff suffered an adverse employment action; and (4) the adverse employment action occurred under circumstances that give rise to an inference of discrimination." (Internal quotation marks omitted.) *Feliciano v. Autozone, Inc.*, 316 Conn. 65, 73, 111 A.3d 453 (2015).