

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

REGINALD K. SEABROOK,)
)
 Plaintiff,)
)
 v.) Civil Action No. 01-802-SLR
)
 DIANE GADOW, and STATE OF)
 DELAWARE/DYRS,)
)
 Defendants.)

Reginald K. Seabrook, Bear, Delaware. Plaintiff, pro se.

Michael F. Foster, Esquire, Deputy Attorney General, Delaware
Department of Justice, Wilmington, Delaware. Counsel for
Defendants.

MEMORANDUM OPINION

Dated: June 10, 2003
Wilmington, Delaware

ROBINSON, Chief Judge

I. INTRODUCTION

Plaintiff Reginald K. Seabrook filed this action on December 4, 2001 against defendants Diane Gadow, Superintendent of Ferris School, and the State of Delaware/Department of Youth Rehabilitation Services (DYRS). (D.I. 1) Plaintiff alleges discrimination based on his race and gender under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e), et seq., ("Title VII"). The court has jurisdiction over plaintiff's claims pursuant to 28 U.S.C. § 1331. Currently before the court is defendants' motion for summary judgment. (D.I. 14) For the following reasons, defendants' motion is granted.

II. Background

Plaintiff, an African American male, began employment with DYRS on December 15, 1997. (D.I. 16 at A4) Plaintiff was hired as a Youth Rehabilitation Treatment Supervisor at the Ferris School in Wilmington, Delaware. (Id.) At the time plaintiff was hired by DYRS there were eight Rehabilitation Treatment Supervisors: two Caucasian males, one Caucasian female and five African American males, including plaintiff. (D.I. 17 at 321) Plaintiff's direct supervisor was Program Manager, Llionel Henderson ("Henderson"), an African American male, who was supervised by the Superintendent of Ferris School, Dianne Gadow ("Gadow"), a Caucasian female. (Id.)

A. First Request for Plaintiff's Termination

On November 2, 1998, during plaintiff's probationary employment period, Henderson requested termination of plaintiff's employment with DYRS for failure to follow directives, insubordination, and tampering with or attempting to influence the findings of investigations into allegations of abuse. (D.I. 16 at A11) The request for termination was submitted by Henderson, but on May 1, 1999 Henderson drafted and signed a letter to Charles T. Watkins, Personnel Administrator, stating that on October 27, 1998 Gadow directed him to submit the request for plaintiff's termination. (D.I. 17 at 281) Although Henderson claims he was directed to submit the request for termination by Gadow, in the course of the Department of Services for Children, Youth and Their Families investigation into plaintiff's Affirmative Action complaint, Henderson stated he was not coerced into making the November 2, 1998 request for termination by anyone, including Gadow. (D.I. 17 at 208) Plaintiff was informed of the request for termination on November 2, 1998 by internal memorandum from Henderson. (D.I. 16 at A11) Henderson's request for termination of plaintiff was the result of allegations of violations of DYRS protocol¹ on October 13,

¹ On September 14, 1998, plaintiff signed an internal memorandum acknowledging receipt of a Ferris School Standard Operating Procedure Manual and accepting responsibility for becoming familiar with the manual. (D.I. 17 at 218)

1998 and October 23, 1998. (Id.) On October 13, 1998, plaintiff was alleged to have violated bedtime and activity protocol by keeping residents of Ferris School in the school gymnasium after program hours. (Id.) In addition, the request for termination alleged plaintiff compelled residents to engage in structured exercise activities on October 23, 1998 in violation of the program model, which forbids the use of exercise as discipline.² (Id.) Henderson's request for termination also stated plaintiff was directed to abstain from contact with residents while an investigation into the October 23, 1998 activities was conducted, but plaintiff violated the direct instruction by initiating contact with residents with the purpose of hindering the investigation. (Id.) As a result of the questions surrounding plaintiff's actions, on December 11, 1998 plaintiff's probationary period with DYRS was extended for an additional six months. (D.I. 16 at A16)

Gadow reviewed the recommendation for termination and forwarded the recommendation to Deputy Director, Michael Alfree ("Alfree").³ Alfree denied the request for termination, instead

² The allegations of abuse stemming from the October 23, 1998 incident were subsequently determined to be unsubstantiated. (D.I. 16 at A12)

³ Under standard agency procedure, the direct supervisor of the employee in question initiates a recommendation for termination, which is then reviewed by the Superintendent and forwarded to the Division Director. (D.I. 17 at 121)

suspending plaintiff for thirty days. (D.I. 17 at 121)

Plaintiff received written notice of the suspension from Gadow on December 24, 1998. (D.I. 16 at A12-A13) Plaintiff was given the opportunity to appeal the suspension within fifteen days of receiving the disciplinary letter. (Id.)

Henderson claims prior to leaving his position at the Ferris School, he prepared a year-end employee review for plaintiff for 1998.⁴ (D.I. 17 at 281) According to a letter signed by Henderson on May 1, 1999, plaintiff was rated as "Exceeding Expectations," despite the previous request for termination. (Id.) Plaintiff claims Gadow withheld Henderson's review and directed acting Program Manager, Christopher Stetzer, to evaluate plaintiff's job performance although Stetzer had never supervised plaintiff. (D.I. 19 at 4-5)

B. Corrective Action Plan

On January 26, 1999, plaintiff's new program manager, Annette Coston ("Coston"), an African American female, sent plaintiff a Corrective Action Plan outlining additional responsibilities as a result of plaintiff's questionable actions. (D.I. 16 at A15) The plan moved plaintiff from the "B" shift (2:00 p.m. to 10:00 p.m.) to the "A" shift (11:00 a.m. to 7:00 p.m.) so he would be directly supervised by Coston while working. The plan also required weekly meetings between plaintiff and

⁴ There is no copy of the review in the record.

Coston to discuss plaintiff's supervision of students, documentation of any physical contact between plaintiff and students, and consent from Coston and the Treatment Team for any treatment strategies regarding students at Ferris School. (Id.) Plaintiff agreed to the Corrective Action Plan by signing and dating the document on January 26, 1999. (Id.)

C. Pre-decision Hearing Regarding Thirty Day Suspension

On February 3, 1999, a pre-decision meeting was held to hear evidence regarding plaintiff's pending suspension. (D.I. 16 at A14) Plaintiff, plaintiff's union representative Joe Conaway, Gadow and Coston were present at the meeting. (Id.) During the meeting, plaintiff argued the thirty day suspension was unwarranted because he was sufficiently disciplined by a written reprimand for the October 23, 1998 incident. (Id.) Following the pre-decision meeting, Gadow concluded that the reprimand plaintiff referenced was directed to plaintiff's failure to follow directives, not the October 23, 1998 incident, which subsequently was determined to be unsubstantiated. (Id.) As a result, Gadow determined that the thirty day suspension was warranted to supplement the letter of reprimand because of plaintiff's violations of DYRS protocol and failure to follow directives. (Id.) Plaintiff's suspension began on February 24, 1999 and ended on March 25, 1999. (D.I. 17 at 42)

D. Second Request for Plaintiff's Termination

On March 8, 1999, a second request for plaintiff's termination from Ferris School was submitted by Gadow to Sherese Brewington-Carr ("Brewington-Carr"), Division Director. (D.I. 16 at A16) Gadow's response to plaintiff's Equal Employment Opportunity Commission (EEOC) complaint states Coston initially submitted a request for termination to Gadow on March 5, 1999.⁵ (D.I. 17 at 119) The request for termination cited three violations of plaintiff's Corrective Action Plan as grounds for termination:⁶ (1) on February 20, 1999 plaintiff entered the Ferris School on his day off; (2) on February 22, 1999 plaintiff held a parent meeting without prior approval by Coston and the Treatment Team, and without the Treatment Specialist assigned to the case;⁷ and (3) on February 24, 1999 plaintiff escorted a student out of the cluster without informing other staff, keeping the student out past bedtime and two hours past the end of

⁵ There is no copy of Coston's request for termination in the record.

⁶ Plaintiff claims he was originally informed by Coston that the request for termination was submitted because plaintiff brought contraband (a toothbrush and Vaseline) into Ferris School. (D.I. 19 at 5) Plaintiff further claims the reasoning for the request for termination was later changed when it was found the allegations regarding the contraband were false. (Id.)

⁷ Plaintiff claims the chairperson for the meeting and the case supervisor were present at the parent meeting. (D.I. 19 at 5) In addition, plaintiff notified Coston through email of the meeting and also claims Coston walked past the meeting, seeing the parties present. (D.I. 17 at 327; D.I. 19 at 5)

plaintiff's shift. (D.I. 16 at A16-A17) The request for termination also stated plaintiff's behavior while with the Ferris School resident on February 24, 1999 was unprofessional, although not in direct violation of the Corrective Action Plan, because plaintiff told the resident he was upset about the thirty day suspension. (Id. at A17) Plaintiff was informed of the request for termination on March 31, 1999 and also notified of his right to address the charges at a pre-decision meeting. (Id. at A18)

While the request for termination was pending, Coston completed a State of Delaware Employee Performance Review to evaluate plaintiff's job performance as Treatment Specialist Supervisor from January 1, 1999 through April 30, 1999. (D.I. 17 at 94) Plaintiff's overall performance was listed as "Needs Improvement." (Id.) Plaintiff claims the evaluation originally stated plaintiff "Meets Expectations," but Gadow told Coston to change the overall evaluation from "Meets Expectations" to "Needs Improvement." (D.I. 19 at 5) In the evaluation, under "Areas of specific performance deficiencies or unsatisfactory work," Coston cited an incident where students were allowed in plaintiff's office unsupervised in violation of Ferris School policies and procedures. (D.I. 17 at 94) Plaintiff signed the review, but commented that the designation of plaintiff's overall performance as "Needs Improvement" was unfair because it was based on

problems raised under the Corrective Action Plan, and not his 1999 Performance Plan.⁸ (Id. at 95) Also, on May 13, 1999, plaintiff's Corrective Action Plan was revised. (Id. at 282) The revised plan returned plaintiff to the "B" shift and ended the mandatory weekly meetings between plaintiff and Coston. (Id.)

E. Denial of Second Request for Termination

A pre-termination hearing was held on May 20, 1999. (D.I. 16 at A20) Plaintiff, Brewington-Carr, Gadow, Personnel Officer Karen Smith, and plaintiff's union representative Patricia Bailey, were present at the hearing. (Id.)

A decision as to the request for termination was reached on June 18, 1999 by Brewington-Carr. (D.I. 15 at A20) The claim plaintiff violated the Corrective Action Plan on February 20, 1999 by entering Ferris School on his day off was removed from the charges because plaintiff's actions were not a violation of a directive under the Corrective Action Plan. (Id. at A22) The February 22 and 24, 1999 incidents were determined to be violations of the Corrective Action Plan and Ferris School policy and procedures. (Id.) Brewington-Carr determined plaintiff's actions were serious, but termination would be too severe,

⁸ The 1999 Performance Plan outlines plaintiff's job responsibilities, separate from the additional responsibilities outlined in the January 26, 1999 Corrective Action Plan. (D.I. 17 at 96)

therefore, plaintiff was demoted to the position of Treatment Specialist, effective July 1, 1999. (Id. at A23)

On June 30, 1999, Coston completed another State of Delaware Employee Performance Review, evaluating plaintiff's job performance from May 1, 1999 through June 30, 1999. (D.I. 17 at 93) Plaintiff's overall performance was rated as "Meets Expectations" and no areas of specific performance deficiencies or unsatisfactory work were listed. (Id.)

F. Plaintiff's Request for Educational Leave

On August 9, 1999, plaintiff submitted a request for educational leave to pursue a Masters in Public Administration at Wilmington College. (D.I. 17 at 295-296) DYRS does allow for educational leave to "promote professional growth and development," but the policy allows Division Directors to use discretion when granting leave. (Id. at 189) Plaintiff requested to take off work every other Friday, Saturday and Sunday to attend classes, in addition to being off one weekend a month for military duty. (Id. at 173) Plaintiff's request for educational leave was denied. DYRS maintains the request was denied because of operating requirements and the "adverse impact" granting the leave would have on Ferris School. (Id.) Plaintiff submitted a proposed schedule which would allow him the necessary time off to attend classes, but the proposal was denied because it did not provide for adequate staffing. (Id. at 312) After

plaintiff was denied educational leave, he called DYRS to notify them he would be using three sick days on October 21, 22, and 23, 1999, which coincided with the educational leave request plaintiff submitted. (Id. at 319-320) Plaintiff received a written reprimand for using sick days to attend educational classes, a violation of Merit Rules.⁹ (Id.)

G. Affirmative Action Complaint

As a result of the disciplinary actions taken against plaintiff, he filed an affirmative action complaint with the Department of Services for Children, Youth and their Families. (D.I. 17 at 208) Plaintiff's complaint claimed he had been subjected to punitive racial harassment by Gadow. (Id.) Norwood J. Coleman ("Coleman") issued a report summary with respect to the charges on October 25, 1999. (Id.) By reviewing materials submitted by plaintiff and interviewing witnesses, Coleman concluded plaintiff had not produced any evidence to show the disciplinary actions taken against him were discriminatory, and no supporting evidence was uncovered in the course of the investigation. (Id.)

H. EEOC Complaint

Plaintiff submitted a complaint to the Delaware Department of Labor on November 8, 1999, alleging he was discriminated

⁹ Plaintiff was also reprimanded for failure to submit the proper documentation to his supervisors prior to taking military leave on October 15, 16 and 17, 1999. (D.I. 17 at 319-320)

against based on his race under Title VII of the Civil Rights Act of 1964 ("Title VII"). (D.I. 17 at 16) The Delaware Department of Labor lacked jurisdiction because the state law statute of limitations had expired, but the case was forwarded to the Equal Employment Opportunity Commission in Philadelphia. (Id. at 27) The complaint alleged plaintiff's thirty day suspension, demotion to Treatment Specialist, and denial of educational leave were discriminatory. (Id. at 16) After conducting an investigation, on September 5, 2001 plaintiff was notified by the EEOC that its investigation concluded there was not sufficient evidence to support a violation of Title VII. (Id. at 13) Plaintiff was also informed of his right to file suit against defendants within ninety days of receipt of the EEOC notice. (Id.)

III. STANDARD OF REVIEW

A court shall grant summary judgment only 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). The moving party bears the burden of proving that no genuine issue of material fact exists. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 n.10 (1986). "Facts that could alter the outcome are 'material,' and disputes are 'genuine' if evidence exists from which a rational person

could conclude that the position of the person with the burden of proof on the disputed issue is correct.” Horowitz v. Fed. Kemper Life Assurance Co., 57 F.3d 300, 302 n.1 (3d Cir. 1995) (internal citations omitted). If the moving party has demonstrated an absence of material fact, the nonmoving party then “must come forward with ‘specific facts showing that there is a genuine issue for trial.’” Matsushita, 475 U.S. at 587 (quoting Fed. R. Civ. P. 56(e)). The court will “view the underlying facts and all reasonable inferences therefrom in the light most favorable to the party opposing the motion.” Pa. Coal Ass’n v. Babbitt, 63 F.3d 231, 236 (3d Cir. 1995). The mere existence of some evidence in support of the nonmoving party, however, will not be sufficient for denial of a motion for summary judgment; there must be enough evidence to enable a jury reasonably to find for the nonmoving party on that issue. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986). If the nonmoving party fails to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof, the moving party is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). With respect to summary judgment in discrimination cases, the court’s role is “to determine whether, upon reviewing all the facts and inferences to be drawn therefrom in the light most favorable to the plaintiff, there exists sufficient evidence to create a genuine issue of

material fact as to whether the employer intentionally discriminated against the plaintiff." *Revis v. Slocomb Indus.*, 814 F. Supp. 1209, 1215 (D. Del. 1993) (quoting *Hankins v. Temple Univ.*, 829 F.2d 437, 440 (3d Cir. 1987)).

IV. DISCUSSION¹⁰

In response to defendants' motion for summary judgment, plaintiff argues the motion is premature because defendants filed the motion prior to receiving plaintiff's response to their interrogatories. (D.I. 20) Under Rule 56(b), a defending party may move for summary judgment at any time. Fed R. Civ. P. 56(b). Under Rule 56, defendants do not have to wait for plaintiff's response to their interrogatories to file a motion for summary judgment, therefore, the motion is properly before the court.

As a preliminary matter, Congress did not intend to create a cause of action against individual employees under Title VII.

¹⁰Plaintiff filed a form complaint with the court, in which he alleged discrimination based on his race and sex by defendants' disciplinary actions. (D.I. 1) In plaintiff's reply to defendants' motion for summary judgment, plaintiff makes additional allegations of disparate treatment and handling of military duty, unfair treatment in evaluations, hiring promotion, and grievances. (D.I. 19) Where the plaintiff is a pro se litigant, the court has an obligation to construe the complaint liberally. See Haines v. Kerner, 404 U.S. 519, 520 (1972). Moreover, the parameters of the resulting civil complaint that may follow a notice of a right to sue from the EEOC are "defined by the scope of the EEOC investigation which can reasonably be expected to grow out of the charge of discrimination." Hicks v. ABT Assocs., Inc., 572 F.2d 960, 966 (3d Cir. 1978). To the extent that plaintiff's November 8, 1999 EEOC charge of discrimination encompasses plaintiff's later allegations, the court will consider them in addition to those in his complaint.

See Sheridan v. E.I. DuPont de Nemours & Co., 100 F.3d 1061, 1078 (3d Cir. 1996). Thus, plaintiff's claims against the individual defendant, Diane Gadow, are dismissed.

In his claims against DYRS, plaintiff alleges that he was subject to discrimination in violation of Title VII of the Civil Rights Act of 1964.¹¹ Claims brought pursuant to Title VII are analyzed under a burden-shifting framework; if plaintiff makes a prima facie showing of discrimination, the burden shifts to defendants to establish a legitimate, nondiscriminatory reason for their actions. See McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973). If defendants carry this burden, the presumption of discrimination drops from the case, and plaintiff must "cast sufficient doubt" upon defendants' proffered reasons to permit a reasonable factfinder to conclude that the reasons

¹¹The anti-discrimination provision of Title VII provides: It shall be an unlawful employment practice for an employer - (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

42 U.S.C. § 2000e-2(a).

are fabricated. Sheridan v. E.I. DuPont de Nemours & Co., 100 F.3d 1061, 1072 (3d Cir. 1996) (en banc).

A. Disparate Treatment Claim

Generally, to state a disparate treatment in employment claim under Title VII, a plaintiff must offer evidence "adequate to create an inference that an employment decision was based on a discriminatory criterion illegal under the act." EEOC v. Metal Serv. Co., 892 F.2d 341, 348 (3d Cir. 1990). First, plaintiff must state a prima facie case of race or gender discrimination. See McDonnell Douglas, 411 U.S. at 802. He can do so by showing by a preponderance of the evidence that: (1) he is a member of the protected class; (2) he suffered an adverse employment action; and (3) similarly situated members of the opposite sex and members of other races were treated more favorably. See id.

Plaintiff claims he was the victim of deliberate harassment and intimidation by Gadow because he is an African American male. (D.I. 17 at 332) According to plaintiff, the disciplinary actions against him and the denial of educational leave were not consistent with the treatment of other DYRS employees. Plaintiff claims racial discrimination caused him to be subjected to more severe disciplinary actions than white male Treatment Specialist Supervisors. (Id. at 16) Plaintiff further claims race and gender were the motivating factors in denying him educational

leave, while a white female employee's request was granted.

(Id.)

In the present action, plaintiff fails to establish a prima facie case of gender discrimination. Although plaintiff, a male, suffered an "adverse employment action," plaintiff has failed to show similarly situated members of the opposite sex were treated more favorably. Plaintiff does specify two employees who he believes received more favorable treatment despite having worse disciplinary records, but plaintiff has not introduced any evidence to support his claim. Even if plaintiff's claim that the two employees received more favorable treatment were substantiated, both employees are also males, precluding any inference of discrimination based on gender. (D.I. 19 at 6)

Plaintiff has also failed to establish a prima facie case of race discrimination. Plaintiff has not introduced evidence that plaintiff's race was a factor in the claimed disparate treatment. First, six out of eight Treatment Specialist Supervisors at the Ferris School are African American males; therefore, it is a difficult burden to prove other employees were treated more favorably due to racial discrimination. Second, plaintiff's immediate supervisors, Henderson and Coston, are both African American, thus, there is little support that the requests for plaintiff's termination were motivated by racial discrimination. Even if plaintiff's claims that Gadow directed Henderson and

Coston to request his termination were credited as true, plaintiff has failed to introduce any evidence that Gadow, a white female, was in any way motivated by plaintiff's race.

In the alternative, if the court found that plaintiff had established a prima facie case of race or gender discrimination, under the shifting burden standard, defendants have shown legitimate nondiscriminatory reasons for the disciplinary actions against plaintiff. See McDonnell Douglas, 411 U.S. at 802. Given plaintiff's numerous violations of DYRS protocol, his Corrective Action plan and directives from supervisors, defendants have demonstrated sufficient cause for plaintiff's thirty day suspension and demotion. With respect to the denial of plaintiff's request for educational leave, denying the leave to provide for adequate staffing on weekends is a legitimate reason, not based on discriminatory motives.

Furthermore, plaintiff has failed to introduce evidence to support any claim that defendants' motives are fabricated. "Speculation and belief are insufficient to create a fact issue as to pretext. Nor can pretext be established by mere conclusory statements of a plaintiff who feels that [he] has been discriminated against." Washington v. Occidental Chemical Corp. 24 F. Supp. 2d 713, 722 (S.D. Tex. 1998). Plaintiff has failed to present any evidence that would support his claim that defendants' actions were motivated by racial or gender

discrimination. Although during his employment plaintiff did receive some favorable employee evaluations, such evaluations do not necessarily lead to the inference that defendants' asserted reasons for the disciplinary actions are pretextual. Without evidence to support plaintiff's claim, his generalized belief that he has been subject to unlawful discrimination does not establish a case for discrimination under Title VII.

B. Hostile Work Environment Claim

To state a Title VII claim premised on a hostile work environment, plaintiff must show: (1) that he suffered intentional discrimination because of race or sex; (2) that the discrimination was pervasive and regular; (3) that the discrimination detrimentally affected plaintiff; (4) that the discrimination would detrimentally affect a reasonable person of the same race or sex in that position; and (5) the existence of respondeat superior liability. See Aman v. Cort Furniture Rental Corp., 85 F.3d 1074, 1081 (3d Cir. 1996).

Plaintiff argues the consistent disparate treatment he has received has created a hostile work environment at Ferris School. (D.I. 17 at 332) In addition to his other claims, plaintiff argues he was denied a reasonable place to work while being investigated for abuse, as well as unfairly reprimanded for tardiness and taking military leave, although other employees were not reprimanded. (Id.) In response, defendants argue the

evidence introduced into the record supports their contention that the disciplinary actions against plaintiff were always in response to his violations of DYRS policy. (D.I. 15 at 17) Defendants further argue that plaintiff's allegations are baseless because he concludes he was discriminated against simply because he was disciplined. (Id.)

By failing to establish that he suffered from intentional discrimination because of his race or gender, plaintiff has failed to prove a prima facie case for hostile work environment. Although plaintiff was disciplined by DYRS for his actions and denied educational leave, defendants' actions were not discriminatory, but the result of plaintiff's violations of DYRS procedures and his supervisors' directives. Therefore, based on the record presented, the court concludes that plaintiff fails to carry his burden of proving a prima facie case on his hostile work environment claim.

V. CONCLUSION

For the reasons stated, defendants' motion for summary judgment is granted. An appropriate order shall issue.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

REGINALD K. SEABROOK,)
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 Plaintiff,)
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 v.) Civil Action No. 01-802-SLR
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 DIANE GADOW, and STATE OF)
 DELAWARE/DYRS,)
)
 Defendants.)

O R D E R

At Wilmington this 10th day of June, 2003, consistent with
the memorandum opinion issued this same day;

IT IS ORDERED that:

1. Defendants' motion for summary judgment (D.I. 14) is granted.
2. The clerk is directed to enter judgment in favor of defendants and against plaintiff.

Sue L. Robinson
United States District Judge