

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

M. NAJI ALJADIR,)
)
 Plaintiff,)
)
 v.) Case No. 02-464 GMS
)
 SUBSTITUTE TEACHER SERVICE,)
)
 Defendant.)

MEMORANDUM

I. INTRODUCTION

On May 28, 2002, the plaintiff, M. Naji Aljadir (“Aljadir”) filed the above-captioned suit, *pro se*, against his former employer, Substitute Teacher Service (“STS”), alleging that it violated Title VII of the Civil Rights Act, 42 U.S.C. § 2000(e) *et seq.* Aljadir, a member of the Muslim religion, was employed by STS as a substitute teacher. Aljadir alleges that STS unlawfully discriminated against him because of his religion when it terminated him from his job as a substitute teacher in January 2001. Presently before the court is STS’s motion for summary judgment based upon an asserted dearth of evidence to support Aljadir’s claims. For the following reasons, the court will grant the motion.

II. BACKGROUND

Aljadir, a former nuclear physicist, has been working as a substitute teacher since the late 1980s. According to Aljadir, he was a successful and popular substitute teacher, working more days than the average full-time teacher. (D.I. 21, at A45). Before working for STS, Aljadir was employed as a substitute teacher in the Red Clay Consolidated School District (“Red Clay”), located in Delaware.

STS provides substitute teacher services for school districts located in Pennsylvania and Delaware. In 1999, STS was awarded a contract to provide substitute teachers for Red Clay. As part of the contract, STS hired many of the substitute teachers formerly employed by Red Clay, including Aljadir. Aljadir began working for STS in September 1999. STS pays its substitute teachers a daily rate, in accordance with Delaware state guidelines. In 2000, the minimum daily rate for substitute teachers was raised from \$75.00 to \$104.00 per day. All STS substitute teachers, including Aljadir, received this raise. During Aljadir's employment tenure, STS offered its substitute teachers the option to sign up as a "district substitute," which guaranteed the teacher work for five days a week and an extra \$10 per day in compensation. In exchange, the substitute teacher was required to work at the school assigned to him by an STS dispatcher. Aljadir participated in the "district substitute" program.

Over the course of Aljadir's employment with STS, it received ongoing complaints about Aljadir's performance from teachers and schools. Its own dispatchers also complained that Aljadir would argue with them about his school assignments. On or about January 3, 2001, STS terminated Aljadir's employment. According to STS's president, Jay Godwin ("Godwin"), the decision to terminate Aljadir was made by his office. Godwin allegedly spoke to Aljadir directly and told him that he was being discharged due to the numerous complaints that STS received. According to Aljadir, he was given no warning, oral or written, before his dismissal. He believes that he was terminated due to his religious beliefs. As an example, he describes a classroom incident where he was discussing the conflict of Crusaders versus Muslims in the Middle ages. During the discussion, he commented that "Muslims know that historically, scientists have affirmed the existence of Mohammed, a Muslim profit, unlike Jesus Christ." (D.I. 7, at 5). Aljadir alleges that he was fired

because of his comment.

In July 2001, approximately six months after STS terminated him, Aljadir filed a discrimination claim with the Delaware Department of Labor (the “DDOL”). The DDOL forwarded his claim to the Equal Employment Opportunity Commission (the “EEOC”) because it had no jurisdiction, since his complaint was filed beyond the 90-day statute of limitations for filing a charge under state law. On February 6, 2002, the EEOC issued a “Dismissal and Notice of Rights” form, closing its file on Aljadir’s charge, because it was unable to conclude that the information it obtained established that STS had violated Title VII.

On May 28, 2002, Aljadir filed a complaint with the court, pursuant to Title VII, 42 U.S.C. § 2000(e) *et seq.*, alleging that he was terminated on the basis of his religious beliefs. On August 4, 2003, STS filed a motion for summary judgment.

III. STANDARD OF REVIEW

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©; *see also Boyle v. County of Allegheny Pa.*, 139 F.3d 386, 392 (3d Cir. 1998). Thus, summary judgment is appropriate only if the moving party shows there are no genuine issues of material fact that would permit a reasonable jury to find for the non-moving party. *Boyle*, 139 F.3d at 392. A fact is material if it might affect the outcome of the suit. *Id.* (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-248 (1986)). An issue is genuine if a reasonable jury could possibly find in favor of the non-moving party with regard to that issue. *Id.* In deciding the motion, the court must construe all facts and inferences in the light most favorable to the non-moving party. *Id.*; *see*

also *Assaf v. Fields*, 178 F.3d 170, 173-74 (3d Cir. 1999). Moreover, the district court must read a *pro se* plaintiff's allegations liberally and apply a less stringent standard to the pleadings of a *pro se* plaintiff than to a complaint drafted by an attorney. *Marvel v. Snyder*, 2001 WL 830309, at *2 (D. Del. July 24, 2001).

IV. DISCUSSION

Aljadir has alleged that STS discriminated against him when it terminated him because of his religion. Title VII prohibits an employer from discriminating against any individual on the basis of race, color, religion, sex or national origin:

[i]t shall be an unlawful employment practice for an employer . . . to discharge any individual, or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, sex, or national origin.

42 U.S.C. § 2000e-2(a). Discrimination claims under Title VII are analyzed under the three-step burden-shifting framework set forth in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). Under *McDonnell Douglas*, a plaintiff must first establish a prima facie case by demonstrating that he is a member of a protected class. The plaintiff must then establish that he was qualified for an employment position, but was not hired or was fired from the position “under circumstances that give rise to an inference of unlawful discrimination.” See *Waldron v. SL Indus., Inc.*, 56 F.3d 491, 494 (3d Cir. 1995). When the plaintiff establishes this prima facie showing, the burden shifts to the defendant to articulate one or more legitimate, non-discriminatory reasons for its employment decision. *Id.* If the defendant produces one or more legitimate reasons, the presumption of discrimination is rebutted. The plaintiff must then prove that the employer's reasons for its employment decision were pretextual – that is, that they are false and that the real reason for the employment decision was discriminatory. *Id.* Finally, if the plaintiff cannot carry the burden of

proof under the shifting-framework established in *McDonnell*, the defendant is entitled to summary judgment. *Stafford v. Noramco of Delaware, Inc.*, 2000 WL 1868179, at *1 (D. Del. Dec. 15, 2000).

A. Prima Facie Case

A prima facie discrimination case under Title VII requires the plaintiff to show that: (1) he is a member of a protected class; (2) he is qualified for the former position; (3) he suffered an adverse employment action despite being qualified; and (4) the action occurred under circumstances giving rise to an inference of unlawful discrimination, such as when non-members of the protected class are treated more favorably than the plaintiff. *Sarullo v. United States Postal Servs.*, 352 F.3d 789, 797 (3d Cir. 2003); *Miller v. Delaware Dep't of Probation & Parole*, 158 F. Supp. 2d 406, 410-11 (D. Del. 2001). Whether the plaintiff has established a prima facie case is a question of law to be decided by the court. *Sarullo*, 352 F.3d at 797. It is clear from the record evidence that Aljadir satisfies the first three elements of the prima facie case. As a Muslim, Aljadir is a member of a protected class. He has sufficient qualifications (in terms of at least educational achievement) to serve as a substitute teacher and he suffered an adverse employment action when he was fired.¹ Thus, the court must determine whether Aljadir was discharged under circumstances giving rise to an inference of unlawful discrimination. Circumstantial evidence of discrimination may include evidence “that the employer treated other, similarly situated non-members of a protected class more favorably.” *Fuentes v. Perskie*, 32 F.3d 759, 765 (3d Cir. 1994). “In determining whether similarly situated non-members of a protected class were treated more favorably than a member of the protected class, the focus is on the particular criteria or qualifications identified by the employer as

¹ Aljadir holds a Ph.D. in nuclear physics, which he received from the University of Pennsylvania in 1973.

the reason for the adverse action.” *Simpson v. Kay Jewelers, Div. Of Sterling, Inc.*, 142 F.3d 639, 647 (3d Cir. 1998) (citing *Ezold v. Wolf, Block, Schorr & Solis-Cohen*, 983 F.2d 509, 528 (3d Cir. 1993)). To survive summary judgment, “the plaintiff must point to evidence from which a factfinder could reasonably infer that the plaintiff satisfied the criterion identified by the employer or that the employer did not actually rely upon the stated criterion.” *Simpson* 142 F.3d at 647 (citing *Fuentes*, 32 F.3d at 767).

Aljadir has alleged that he has been a successful substitute teacher. He further alleges that he neither received complaints from any teachers nor was he fired from any substitute teaching position prior to working for STS. Aljadir alleges that STS treated him differently than it treats its “mainstream subs,” who are less qualified than him and still employed by STS. (D.I. 20, at 5). As previously described, Aljadir has also alleged that he was terminated for expressing his religious beliefs. Aljadir claims that when he “was dismissed with no warning or explanation . . . [he] had no choice but to conclude that the controversial event coupled with the atmosphere created by the events of Sept. 11 toward those from Islamic background had much to do with . . . [his] dismissal.” (D.I. 21, at A46). STS, in response, contends that it terminated Aljadir’s employment as a result of ongoing complaints it received from various schools and teachers.² Specifically, STS contends that some teachers complained that Aljadir did not follow lesson plans and/or that he had poor class management. STS contends its computer records show that, during the fall semester for 2000, it received more than fifty requests that Aljadir not be assigned to particular classrooms as a substitute teacher. STS also received requests from schools not to assign Aljadir to any of their classrooms.

² STS has included many of the complaints it received in its Appendix to Defendant’s Opening Brief in Support of Its Motion for Summary Judgment (D.I. 18).

(D.I. 18, at A47). In addition, STS asserts that its own dispatchers who contacted Aljadir with assignments also complained about him, stating that he “would argue with them about what schools he was assigned to work, even though he was required under his agreement to report to the school assigned by STS.” (*Id.* at A46). Thus, STS asserts that it did not terminate Aljadir because of his religion.³ Rather, STS contends that it terminated him based on non-discriminatory criteria, namely the number of complaints it received.

Aljadir admitted at deposition that some teachers did not like the way he handled their classrooms and complained that he did not follow their lesson plans. He further testified that several schools asked not to have him come back as a substitute teacher. (D.I. 18, at A11-14, A19). In addition, Aljadir has presented no evidence of religious discrimination except his claim that he was fired because he is a Muslim. Lastly, Aljadir has failed to identify any similarly situated non-Muslim that STS still employed after receiving numerous complaints about his or her class management and teaching. On this record, even when viewing the evidence in the light most favorable to Aljadir, the non-movant, the court cannot find that he has established a prima facie case under *Sarullo*.

³ Godwin, in a letter responding to Aljadir’s charge of discrimination with the EEOC stated that he “did not know that Aljadir was a Muslim until . . . [he] received notification from the EEOC. (D.I. 21, at A44).

Because Aljadir has not met his burden to establish a prima facie case, the court need not consider the other prongs of *McDonnell Douglas*. STS, therefore, is entitled to summary judgment.

Dated: October 5, 2004

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE

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Plaintiff,)	
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ORDER

For the reasons stated in the court's Memorandum Opinion of this same date, IT IS HEREBY ORDERED that:

1. The defendant's Motion for Summary Judgment (D.I. 16) is GRANTED.

Dated: October 5, 2004

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE