IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

G. RANDOLPH GOODLETT,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civ. No. 08-298-LPS
	:	
STATE OF DELAWARE, DEPARTMENT OF ELECTIONS	:	
	:	
Defendant.	:	

ORDER

WHEREAS, on March 6, 2009, this Court granted in part and dismissed in part Defendant Delaware Department of Elections' ("DDE") motion to dismiss (D.I. 13) Plaintiff's Complaint (D.I. 1);

WHEREAS, DDE filed a motion for summary judgment on March 12, 2010 (D.I. 31), Plaintiff opposed the motion on April 12, 2010 (D.I. 34), and DDE filed a reply in support of its motion on April 19, 2010 (D.I. 35);

IT IS HEREBY ORDERED THAT DDE's motion for summary judgment is **GRANTED,** in accordance with the following:

1. The factual background of this case is set forth in the Court's March 6, 2009 Order. (D.I. 13 ("March 2009 Order") at 1-7)

2. The Court's March 2009 Order dismissed all of Plaintiff's claims other than his claim for pay disparity based on race. (March 2009 Order at 10) In the instant motion, DDE argues that Plaintiff has failed to set forth a *prima facie* case of raced-based pay discrimination, as required by *McDonnell-Douglas v. Green*, 411 U.S. 792 (1973), because the record does not

establish that Plaintiff, an African-American, was "'paid less than Caucasian employees for performing work of substantially equal skill, effort, and responsibility, under similar working conditions.'" (D.I. 31 at 10-11 (quoting *Stanziale v. Jargowsky*, 200 F.3d 101, 107 (3d Cir. 2000)) The relevant period for this surviving claim is April 2006, *i.e.*, 300 days prior to the date Plaintiff filed an EEOC complaint in February 2007, through February 2007. (D.I. 31 at 12; March 2009 Order at 10) However, the uncontroverted record establishes that in April 2006, Plaintiff was paid 100% of the midpoint salary for his position, while two Caucasian employees and one African-American employee were paid at 105% of the midpoint salary for the same position. (D.I. 31 at 12) Thus, according to DDE, Plaintiff cannot establish that when his claim arose in April 2006, he and other similarly situated African-American employees "were systematically paid less than similarly situated White employees, due to their race." (*Id.* (internal quotation marks omitted))

3. Plaintiff offers no rebuttal to DDE's argument; in fact, he does not even mention the time period in question (April 2006 to February 2007) nor any other facts relevant to DDE's motion in his two-page opposition. (D.I. 34 at 1-2)[1] Instead, Plaintiff's submission addresses only his belief that, based on the March 2009 Order, he is a "prevailing party" to whom attorney's fees are owed, but have not yet been paid. (*Id.*) Plaintiff also states that while DDE raised Plaintiff's salary to 105% of his midpoint following the entry of the March 2009 Order, he has not been "made whole" due to the outstanding attorney's fees. (*Id.*) Plaintiff further argues that DDE has suffered no prejudice from an earlier purported defect in service of process. (*Id.* at 2)

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[1]Evidently, Plaintiff took no discovery in this action. (D.I. 35 at 5) Nor did he submit any affidavits, or any evidence of any kind, in connection with briefing the instant motion.

4. A grant of summary judgment is appropriate only where "the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). The moving party bears the burden of demonstrating the absence of a genuine issue of material fact. *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 586 n.10 (1986). If the moving party has carried its burden, the nonmovant must then "come forward with 'specific facts showing that there is a *genuine issue* for trial.'" *Id.* at 587 (quoting Fed. R. Civ. P. 56(e) (emphasis in original)). The Court will "draw all reasonable inferences in favor of the nonmoving party, and it may not make credibility determinations or weigh the evidence." *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 150 (2000). The Court may not grant summary judgment if a "reasonable jury could return a verdict for the nonmoving party." *Williams v. Borough of West Chester, Pa.*, 891 F.2d 458, 459 (3d Cir. 1989). A factual dispute is genuine only where "the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

5. Here, the record reveals that for the 300 days preceding Plaintiff's February 2007 EEOC complaint, another similarly situated African-American employee was paid as much as the two similarly situated Caucasian employees. *See* D.I. 32 at A-114, A-158. Thus, no reasonable factfinder could find that, in April 2006, Plaintiff and other African-American employees of DDE were "paid less than Caucasian employees for performing work of substantially equal skill, effort, and responsibility, under similar working conditions,'" a required element of Plaintiff's *prima facie* case. *Stanziale*, 200 F.3d at 107; *see also* D.I. 32 at A-107 (Plaintiff's Charge of Discrimination, alleging he "and other Black employees [were]

systematically paid less than similarly situated White employees due to their race"). Summary judgment is, therefore, appropriate given that there is no genuine issue of material dispute regarding whether Plaintiff and other African-American DDE employees were paid less than Caucasian employees during the relevant time period.

6. Given the granting of DDE's motion for summary judgment, it is not necessary to reach DDE's alternative grounds for dismissal based on purported defects in service of process.

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Delaware counsel are reminded of their obligations to inform out-of-state counsel of this Order. To avoid the imposition of sanctions, counsel shall advise the Court immediately of any problems regarding compliance with this Order.

Dated: May 28, 2010

Honorable Leonard P. Stark
UNITED STATES MAGISTRATE JUDGE