UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

CYNTHIA LUCIBELLO,	:	
	:	
Plaintiff,	:	
	:	
V.	:	CIVIL NO. 3:03cv0814 (RNC)
	:	
YALE-NEW HAVEN HOSPITAL,	:	
	:	
Defendant.	:	

RULING AND ORDER

Cynthia Lucibello brings this action against her employer, Yale-New Haven Hospital, pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. ("Title VII"). The case arises from a verbal altercation that occurred at the Hospital during working hours between the plaintiff, who is white, and a co-worker, Brenda Baker-Chapman, who is African-American. As a result of the incident, plaintiff was given a final written warning and three-day suspension while Baker-Chapman received only a written warning. Plaintiff claims that she received harsher discipline than Baker-Chapman because she is white.[1] The Hospital responds that its investigation of the

[1] Plaintiff's statement of material facts in dispute states that the discipline she received "was unduly harsh in comparison with the discipline received by Brenda Baker-Chapman, an African-American, and reflected disparate treatment on account of race by the defendant." The supporting citation is to a paragraph in plaintiff's affidavit where she states, "Although I know that I am considered a 'squeaky wheel' at the hospital, I believe that the disparity in treatment which I have experienced is racially based, and that management is afraid to take disciplinary action against African-American employees at the hospital." Pl.'s Aff. ¶ 26.

incident led it to conclude that plaintiff was more culpable and, unlike Baker-Chapman, she had been disciplined before for similar conduct. The Hospital has moved for summary judgment. The admissible evidence in the record, even assuming it is arguably sufficient to permit a minimal inference of disparate treatment based on race, is plainly insufficient to permit a jury to logically infer that the Hospital's stated reasons for its disciplinary decision are a pretext for discrimination. Accordingly, the motion is granted.[2]

I. FACTS

The parties' Local Rule 56 statements and accompanying exhibits, viewed most favorably to the plaintiff, show the following. Plaintiff has worked at the Hospital since 1989. Lucibello Aff. ¶ 4. In February 1998, she became a secretary in the facilities department, her current position. Id. ¶ 2. Beginning no later than 2001, she had difficulty with Baker-Chapman, who also works in the facilities department. At some point in time, Baker-Chapman stopped speaking to the plaintiff and communicated with her by leaving post-it notes on office

[2] Plaintiff also seeks relief under 42 U.S.C. S 1981 and the Connecticut Fair Employment Practices Act, Conn. Gen. Stat. § 46a-60, et seq. These claims are governed by the same analysis as the claim under Title VII. See Hudson v. IBM Corp., 620 F.2d 351, 354 (2d Cir. 1980) (section 1981 case); Levy v. Comm'n on Human Rights & Opportunities, 236 Conn. 96, 103 (1996)(CFEPA case). Accordingly, they are unavailing for substantially the same reasons stated in the text with regard to the Title VII claim.

equipment. Baker-Chapman also displayed signs on her desk that plaintiff thought were meant to taunt her, for instance, a sign saying, "Forgive your enemies, nothing annoys them so much." Id. ¶ 7. Plaintiff complained to William Mahoney, a white male, who is the administrative director of the facilities department. Id. ¶ 9. Mahoney investigated but found nothing offensive in Baker-Chapman's conduct. Def.'s Rule 56(a)(1) Statement ("DSOF")¶ 7; Pl.'s Rule 56(a)(2) Statement ("PSOF") ¶ 7.

On May 20, 2002, plaintiff and Baker-Chapman had a loud argument in the facilities department. DSOF ¶¶ 5-6; PSOF ¶¶ 5-6. Plaintiff was offended by a note Baker-Chapman had placed on a computer terminal stating that people who turned off the computer should remember to turn it back on. Plaintiff had turned off the computer and forgotten to turn it back on just before the note was posted. Lucibello Dep. at 49.

Plaintiff complained to Mahoney about Baker-Chapman's note, calling it another instance of harassment. Mahoney disagreed with her characterization and took no action. DSOF ¶ 9; PSOF ¶ 9.

Plaintiff then circulated an e-mail to "The Team" (i.e. Baker-Chapman and others) regarding "Harassing Notes." The e-mail stated:

> I am tired of Brenda Baker's "scolding" visual notes. This is indicative of the maturation and professional level of Brenda Baker in her level of communication and mutual respect in the office. A note "reminding"

> someone to turn the CCSS system back on is quite infantile. Yes, I turned it off to re-boot the system, but got side-tracked by dispatching and sinfully forgot to put it back on. However, I do not think a simple mistake warrants an open-view piece of childish harassment. What more can I say. Maybe the problem isn't Brenda Baker, especially when she is allow[ed] to do this childish way of communicating.

Mahoney Aff. Ex. 2B; see also DSOF ¶ 11; PSOF ¶ 11.

Twenty minutes later, plaintiff sent another e-mail to Baker-Chapman:

> I guess I have to communicate to teach you a little mutual respect, because Yale is not doing that for you. I consider your messages in direct line of harassment. A copy is being forwarded to my attorney for his perusal. You have harassed unwarrantingly with your "visual" notes a little too often. Since seeing it was [not] dealt properly with Yale, as a whole, I am now considering it my duty to tell you to stop communicating in such a manner for all to see. The machine is not turned off so often to warrant this message or others you have given and I will be human without harassement [sic]. However, you cannot deal with issues in [a] respectful manner, even when it was not done with any intention.

Mahoney Aff. Ex. 2B.

Baker-Chapman responded by e-mail that the note she put on the computer terminal was not meant to be harassing "but simply to serve as a reminder to everyone." DSOF ¶ 11; PSOF ¶ 11.

Plaintiff replied by e-mail:

> I am one of about two or three who handle this computer and I repeat for shortness sakes, I am tired of being harassed by communication. No further reply is needed As stated, I am forwarding this to my lawyer. I would not have to do that if she was stopped originally from this type of communication in the office. Is that in HR policy? She wants to communicate with me. That is ironic, she is so good at putting up her messages. End

> of subject, say what you want. It is finished for today and going to my lawyer.

Mahoney Aff. Ex. 2B.

Following this exchange of e-mails, Baker-Chapman left her work area to take a break. On her return, she went to plaintiff's desk and said, "Cynthia, if you have something to say to me, say it to my face, and stop e-mailing me." Mahoney Aff. Ex. C. Plaintiff stood up and told Baker-Chapman to stop displaying harassing notes.

This confrontation quickly escalated into a shouting match that created a "major workplace disturbance." DSOF ¶¶ 5, 13; PSOF ¶¶ 5, 13. Gretchen Zukunft, who is white, sheparded plaintiff and Baker-Chapman to a conference room, where the argument continued for some time. DSOF ¶¶ 13-14; PSOF ¶¶ 13-14. Plaintiff yelled that Baker-Chapman should stop harassing her with notes; criticized Baker-Chapman for being incapable of doing her job; declared several times that she, the plaintiff, was going to sue Baker-Chapman and Yale; and stated that she had already spent $5,000 on a lawyer. DSOF ¶ 14; PSOF ¶ 14; see also Lucibello Dep. at 51-52. Baker-Chapman responded, "Fine, I'll sue your ass too" or "I'd spend any amount of money to get your ass." DSOF ¶ 15; PSOF ¶ 15; see also Lucibello Dep. at 51. The argument subsided only after a supervisor, Tom Roche, who is also white, intervened.

The next day, plaintiff sent an e-mail to her superior,

Alvin Johnson, stating that she intended to sue him, Mahoney, Roche, Zukunft and others for "ALLOWING harassment." The e-mail stated, "Maybe I am the wrong race." Mahoney Aff. Ex. 2C.

At the time of the incident, the Hospital had a code of conduct for employees and a policy on workplace aggression. In the event of a suspected violation of the code or policy, the department head or supervisor was expected to conduct an investigation and determine the appropriate disciplinary action. In accordance with this procedure, Mahoney interviewed and collected statements from witnesses to the verbal altercation between plaintiff and Baker-Chapman. DSOF ¶ 18; PSOF ¶ 18. After his investigation was completed, he and Lina Perotti, the Hospital's Manager of Human Resources, who is also white, decided that both plaintiff and Baker-Chapman had engaged in improper conduct requiring formal disciplinary action. DSOF ¶ 22; PSOF ¶ 22.

The Hospital had five basic steps of progressive disciplinary action available to it: (1) counseling; (2) verbal warning; (3) written reprimand; (4) final written warning; and (5) discharge. Plaintiff was given a final written warning and three-day suspension. Baker-Chapman was given a formal written warning.

The warning notice given to plaintiff stated, "On 5/20/02 [you] provoked a disruption in response to a note on a CCSS

Terminal. This behavior violates policy as attached." Mahoney Aff. Ex. 2E. A memorandum attached to the notice set forth the following details:

> By your behavior on May 20, 2002, with respect to your dispute with Brenda Baker Chapman, you are issued this final written warning with three (3) days' suspension as disciplinary action for violation of the Employee Code of Conduct as follows:
>
> Policy #B:8 Basic Code of Employee Conduct
>
> 3. Employees must refrain from engaging in abusive, provocative or profane language or actions . . .
>
> Your repeated insults directed towards Brenda, both verbally and in writing, represent abusive and provocative language. You used terms such as childish, infantile, immature, unprofessional, and said you would "teach [her] a little mutual respect."
>
> 4. Employees should observe the principles of mutual respect in their working relationships with their supervisor and co-workers. You said, "The problem is the lead in the office who cannot establish mutual respect for anyone," [and] "[T]he administration has not dealt with the issue of harassing notes"; also you recommended that [Baker-Chapman] get $5,000 and get a lawyer because you were going to sue her and "Yale."
>
> In addition, Cynthia, the above-referenced behaviors represent a serious violation of the Basic Code of Conduct, rule #6 "Fighting, threatening physical harm, creating a disturbance, or other acts constituting gross disorderly conduct."
>
> By initiating this dispute, and then fueling the incident with numerous inflammatory e-mails, disruptive actions (banging items about on your desk) and loud, aggressive verbal exchanges, you created a situation which resulted in a significant disruption in the office and lost work time of many individuals.
>
> Moreover, your conduct clearly represents a violation of G:2 policy on Workplace Aggression in that your

> remarks appear to have been intended to intimidate and threaten your co-worker. Specifically, "An act of aggression or violence is defined as any action or comment, [which] interpreted under the circumstances constitutes a threat and/or causes fear, intimidation or harm. This includes any verbal comment or physical action or threat of action, directed against [Hospital] employees. . . ."
>
> Given the Hospital's "zero tolerance" of workplace aggression, violation of this policy could result in the termination of your employment.
>
> Cynthia, I cannot stress the importance of an immediate change in your behavior. I urge you to consult with the Employee Assistance Program for counseling and/or referral. Failure to demonstrate significant immediate improvement in your interpersonal communications will result in the termination of your employment.

Id.; see also DSOF ¶ 24; PSOF ¶ 24.

The written warning given to Baker-Chapman stated that she had committed an offense or policy violation in that she had shown "Lack of Mutual Respect [for a co-worker]; contribut[ed] to a disruption in the workplace; [and directed] inappropriate language . . . at a co-worker." Ex. 5 to Pl.'s Opp; see also DSOF ¶ 23; PSOF ¶ 23.

Before the incident in question, plaintiff's supervisors had spoken with her on at least four occasions regarding her negative interaction with various co-workers. See DSOF ¶¶ 27, 28, 32, 34; PSOF ¶¶ 27, 28, 32, 34. In her 2001 annual performance appraisal, she had been admonished by Mahoney that "her temper and emotional outbursts were negatively affecting her job performance and the performance of the department, and that he

could not continue to allow such behavior." DSOF ¶ 34; PSOF ¶ 34. Baker-Chapman had no prior disciplinary history. DSOF ¶¶ 23, 35; PSOF ¶¶ 23, 35.

II. DISCUSSION

A. Standard for Summary Judgment

Under Rule 56(c) of the Federal Rules of Civil Procedure, summary judgment may be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with [any] affidavits [presented by the parties] show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Because the purpose of summary judgment is to isolate and dispose of claims that lack evidentiary support, the nonmoving party may not rest on the allegations of its pleadings, but must point to evidence showing that the case involves a genuine issue of material fact requiring a trial. A fact is "material" for purposes of Rule 56 if it "might affect the outcome of the suit under the governing law." Anderson v. Liberty Lobby, Inc, 477 U.S. 242, 248 (1986). An issue as to a material fact is "genuine" if the evidence, viewed most favorably to the nonmoving party, would permit a reasonable jury to return a verdict for that party. Id.

B. Title VII

Title VII makes it unlawful for an employer to discriminate against any individual with respect to terms, conditions, or

privileges of employment because of the individual's race. 42 U.S.C. § 2000e-2(a)(1). The statute protects whites as well as nonwhites. McDonald v. Santa Fe Trail Transp. Co., 427 U.S. 273, 280 (1976). A plaintiff can establish a prima facie case of discrimination by showing that he or she (1) belongs to a protected group; (2) was performing satisfactorily; (3) suffered an adverse employment action; and (4) the action occurred in circumstances supporting an inference that it was caused by discrimination. Evidence comprising a prima facie case raises a presumption that the defendant's action was motivated by discrimination. To rebut this presumption, the defendant must articulate a non-discriminatory reason for its action. The burden then shifts back to the plaintiff to show that the proffered reason is not the true or only reason for the defendant's action and that the action was motivated at least in part by discrimination. McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802-05 (1973); see also Texas Dep't of Community Affairs v. Burdine, 450 U.S. 248, 252-53 (1981).

Sufficient evidence to permit a jury to find that the defendant's stated reason for its action is untrue, combined with evidence comprising a prima facie case, may permit an inference that the defendant is "dissembling to cover up a discriminatory purpose." Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 147 (2000). see also Windham v. Time Warner, Inc., 275 F.3d

179, 188 (2d Cir. 2001); Zimmerman v. Assocs. First Capital Corp., 251 F.3d 376, 381 (2d Cir. 2001). However, "conclusory allegations of discrimination are insufficient to satisfy the requirements of Rule 56(e)." Meiri v. Dacon, 759 F.2d 989, 998 (2d Cir. 1985).

1. Prima Facie Case

The Hospital contends that it is entitled to summary judgment because, even assuming plaintiff is able to satisfy the first three elements of a prima facie case, she has not satisfied the fourth one, that is, she has not shown that the adverse employment action at issue occurred in circumstances giving rise to an inference of discrimination.[3] Plaintiff contends that the

[3] In reverse discrimination cases, most courts of appeals require the plaintiff to show, as the first element of a prima facie case, background circumstances raising an inference that the defendant discriminates against whites. Burbank v. Office of Atty. Gen., 240 F. Supp. 2d 167, 170 n.8 (D. Conn. 2003)(collecting cases), aff'd, 75 Fed. Appx. 857 (2d Cir. 2003). The Second Circuit has not addressed this matter directly. However, in a Title VII case brought by a white female complaining of race and gender discrimination with regard to severance pay, it held that the plaintiff had presented a prima facie case although no such background circumstances had been shown. McGuinness v. Lincoln Hall, 263 F.3d 49, 53 (2d Cir. 2001). The plaintiff made out a prima facie case, the Court stated, "by showing that she is within a protected group; that she is qualified for the position; that she was subject to an adverse employment action involving severance pay; and that a similarly situated employee not in the relevant protected group received better treatment." Id. ; see also Stern v. Trs. of Columbia Univ., 131 F.3d 305, 312-13 (2d Cir. 1997)(non-Hispanic white male complaining of discrimination based on national origin satisfied standard elements of prima facie case without showing background circumstances). In view of McGuinness, I do not believe the Second Circuit would require plaintiff to show, as

circumstances support an inference of discrimination because she was similarly situated to Baker-Chapman. Showing that a similarly situated employee outside the protected group was treated more favorably is an effective way of establishing the fourth element of a prima facie case. Abdu-Brisson v. Delta Air Lines, Inc., 239 F.3d 456, 468 (2d Cir. 2001). It is undisputed that Baker-Chapman was treated more favorably in that she received a less serious form of discipline. Accordingly, the issue raised by the parties' dispute with regard to plaintiff's ability to establish a prima facie case is whether the record, viewed most favorably to the plaintiff, would permit a jury to find that she and Baker-Chapman were similarly situated. The Second Circuit has said that this issue ordinarily presents a question of fact for the jury. Graham v. Long Island Rail Road, 230 F.3d 34, 39-40 (2d Cir. 2000). Nevertheless, if the evidence would not support a finding that plaintiff and Baker-Chapman were similarly situated, summary judgment may be granted. Cruz v. Coach Stores, Inc., 202 F.3d 560, 568 (2d Cir. 2000).[4]

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part of a prima facie case, background circumstances suggesting that defendant discriminates against whites. See Pesok v. Hebrew Union College-Jewish Inst. of Religion, 235 F. Supp. 2d 281, 286 (S.D.N.Y. 2002), aff'd, 86 Fed. Appx. 479 (2d Cir. 2004); Tappe v. Alliance Capital Mgmt. L.P., , 177 F. Supp. 2d 176, 181-83 (S.D.N.Y. 2001).

[4] Plaintiff's prima facie case stands or falls on her claim that Baker-Chapman was similarly situated because she offers no other evidence to support an inference of disparate treatment based on race. In particular, she points to no evidence of the

When a plaintiff tries to establish a prima facie case by pointing to more favorable treatment of other employees, "those employees must have a situation sufficiently similar to plaintiff's to support at least a minimal inference that the difference [in] treatment may be due to discrimination." McGuinness v. Lincoln Hall, 263 F.3d 49, 54 (2d Cir. 2001). In cases involving disparate treatment with regard to discipline, the plaintiff must show that the conduct of the other employee was of comparable seriousness. Padilla v. Harris, 285 F. Supp. 2d 263, 270 (D. Conn. 2003)(plaintiff's comparator not similarly situated for purpose of establishing prima facie case because conduct less serious); see also Slattery v. Swiss Reinsurance Am. Corp., 248 F.3d 87, 94 (2d Cir. 2001)(none of plaintiff's comparators also had been late with their reports or failed to provide leadership). If, as in this case, the employer uses a process of progressive discipline, the plaintiff may also have to show that the other employee was at a comparable stage in the process. See Edwards v. Pa. Tpk. Comm'n, No. 02-4279, 2003 WL 22508498, at *3 (3d Cir. Nov. 5, 2003)(plaintiff's comparator charged with similar infractions but not similarly situated because at different stage of disciplinary scheme); Leong v. Potter, 347 F.3d 1117, 1124 (9th Cir. 2003)(plaintiff's

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type other Circuits require to establish a prima facie case of reverse discrimination.

comparators not similarly situated because not subject to last chance agreement); cf. Padilla, 285 F. Supp. 2d at 270 (plaintiff's comparator not similarly situated because no similar disciplinary record of client neglect).

The Hospital contends that Baker-Chapman's situation was not sufficiently similar to plaintiff's to support an inference of discrimination because the behavior for which she was disciplined was objectively less serious and she had no prior disciplinary record. Plaintiff responds that Baker-Chapman's conduct was of comparable seriousness because she started the argument by raising her voice and speaking in a derogatory tone, subsequently yelled in the conference room, and used profanity. Lucibello Aff. ¶¶ 12, 19. In addition, she asserts that Baker-Chapman had no prior disciplinary record only because Mahoney chose to overlook her aggressive behavior toward the plaintiff. Id. ¶ 20.

Crediting plaintiff's affidavit insofar as it alleges specific facts, viewing the statements of the third party witnesses in a manner most favorable to her, and ignoring all evidence that a jury would not have to believe, a jury could find with regard to the incident in question that Baker-Chapman confronted the plaintiff after taking a break, that the two then participated more or less equally in a shouting match, that each threatened to sue the other, and that Baker-Chapman was the only one to use profanity. These findings could support an inference

that Baker-Chapman's conduct was roughly comparable.

Significantly, however, plaintiff points to no admissible evidence to support a jury finding that Baker-Chapman had a comparable history of disruptive behavior for which she should have been disciplined. She asserts that Baker-Chapman was guilty of using signs to harass her. Such conduct, objectively viewed, is clearly different from, and less disruptive than, the outbursts and negative interactions underlying the written warnings plaintiff previously received. In fact, plaintiff has no basis for her assertion that Baker-Chapman used the signs to harass her except her statement concerning her subjective perception of Baker-Chapman's intent.[5] In the absence of evidence permitting a finding that Baker-Chapman had a comparable history of disruptive conduct, the undisputed fact that at the pertinent time plaintiff and Baker-Chapman were at significantly different stages in the Hospital's process of progressive discipline precludes a finding that they were similarly

[5] She also avers that long after the incident in question, Baker-Chapman threw a plexiglass file on her desk (plaintiff was not at her desk at the time), that it was reported to Mahoney by Zuknuft, and that he declined to discipline Baker-Chapman. Lucibello Aff. ¶ 25. Because this alleged instance of Mahoney's failure to discipline Baker-Chapman occurred long after he disciplined plaintiff for the incident in question, its probative value with regard to his state of mind when he disciplined plaintiff is weak. In any event, plaintiff's statement that Zuknuft reported the file-throwing incident to Mahoney is inadmissible hearsay and thus insufficient to create a genuine issue of fact. Patterson v. County of Oneida, 375 F.3d 206, 219 (2d Cir. 2004).

situated.[6] The evidence is therefore insufficient to enable plaintiff to discharge her burden of establishing a prima facie case.

2. Pretext

Though plaintiff's inability to prove the fourth element of a prima facie case is fatal to her claim, the Hospital has articulated nondiscriminatory reasons for its action, and plaintiff has had ample opportunity to investigate and challenge their validity. Accordingly, I assume without deciding that the evidence permits the minimal inference of discrimination required to establish a prima facie case and proceed to consider whether plaintiff can prove that the defendant's stated reasons for its action are a pretext for discrimination. See Bluight v. Consol. Edison Co., No. 00 CIV 3309 (GEL), 2002 WL 188349, at *4 (S.D.N.Y. Feb 6, 2002).

The Hospital asserts that plaintiff was disciplined more severely than Baker-Chapman because Mahoney's investigation led him to view her as more culpable and, unlike Baker-Chapman, she

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[6] In her affidavit, plaintiff asserts that other African-American employees should have been disciplined at one time or another but were not. Such assertions are of no consequence. Generalizations about the allegedly tolerated misbehavior of others are insufficient to allow a jury to make a finding of improper motivation. Powell v. Consol. Edison Co., No. 97 CIV. 2439(GEL), 2001 WL 262583, at *12 (S.D.N.Y. Mar. 13, 2001); see also Abbondanzo v. Health Mgmt. Sys., Inc., No. 00 CIV. 4353 (LMM), 2001 WL 1297808, at *6 (S.D.N.Y. Oct. 25, 2001), aff'd, 36 Fed. Appx. 3 (2d Cir. 2002).

had been admonished repeatedly for negative conduct toward co-workers. A jury could readily find that these are in fact the true reasons for the difference in discipline. Mahoney's warning notice to the plaintiff and accompanying memorandum explain in detail that her behavior violated the Hospital's code of conduct and policy against workplace aggression. The charges are substantiated by plaintiff's own e-mails, admissions in her affidavit concerning her own conduct, and seemingly credible statements of third party witnesses. In addition, Mahoney's affidavit states that he gave plaintiff a final written warning and three-day suspension "[b]ecause [she] had prior instances of disruptive behavior and breaches of the Employee Code of Conduct." Mahoney Aff. ¶ 21. Plaintiff admits that she had been given "earlier written warnings," Lucibello Aff. ¶ 19, and a jury would be required to find that she received a strongly worded warning from Mahoney not long before the incident in question as part of her 2001 annual performance appraisal.

Because the Hospital's stated reasons for the challenged action are strongly supported by the evidence, the burden on plaintiff to prove that they are a pretext for discrimination is substantial. To enable a juror to discredit these reasons, plaintiff must show that they are "so ridden with error that [the Hospital] could not honestly have relied upon [them]." Lieberman v. Gant, 630 F.2d 60, 65 (2d Cir. 1980); see also Fuentes v.

Perskie, 32 F.3d 759, 765 (3rd Cir. 1994)(to prove pretext plaintiff must demonstrate weaknesses, implausibilities, inconsistencies, or contradictions in employer's proffered legitimate reasons). She makes no such showing.

To establish pretext, plaintiff relies chiefly on the statements in her affidavit that Baker-Chapman started the argument by raising her voice and using a derogatory tone. Plaintiff's sworn statement raises a factual issue as to how the argument began. But the issue at this stage of the analysis is not whether Baker-Chapman started the argument. The issue is whether evidence in the record would permit a jury to disbelieve the Hospital's explanation for its action.

Plaintiff offers no evidence to cast doubt on Mahoney's statement that his investigation caused him to view plaintiff as more culpable with regard to the incident as a whole. The statements in her affidavit concerning how the incident occurred do not controvert the statements in his affidavit concerning her violations of Hospital rules. Nor does she deny that she had a prior history of disruptive behavior in the workplace resulting in multiple written warnings. On this record, a reasonable juror would be bound to accept the Hospital's explanation as true.

Summary judgment is therefore appropriate. See Meiri, 759 F.3d at 998.

III. CONCLUSION

Accordingly, the motion for summary judgment is hereby granted. The Clerk may close the file.

So ordered.

Dated at Hartford, Connecticut this 10th day of March 2005.

Robert N. Chatigny
United States District Judge