

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

George D. Philip,

Civil No. 99-1450 (DWF/SRN)

Plaintiff,

v.

**MEMORANDUM
OPINION AND ORDER**

Ford Motor Company, a Delaware
Corporation,

Defendant.

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Minneapolis, MN 55402-2919, counsel for Plaintiff.

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counsel for Defendant.

Introduction

The above-entitled matter is before the undersigned United States District Judge pursuant to Defendant's Motion for Reconsideration of the Court's June 13, 2001, Order. In its June 13, 2001, Order the Court granted summary judgment in favor of the Defendant with respect to Plaintiff's claims of religious discrimination and retaliation but denied summary judgment on Plaintiff's claims of disability

discrimination and race discrimination. Defendant requested reconsideration of that decision in light of the Supreme Court's ruling in *Toyota Motor Mfg. v. Williams*, 122 S. Ct. 681 (2002). The Court agreed that a motion for reconsideration was proper, and now, in light of the submissions of the parties, the Court grants summary judgment in favor of Defendant on Plaintiff's remaining claims.

Background

A more thorough recitation of the facts may be found in this Court's Order of June 13, 2001. For purposes of this motion for reconsideration, the relevant facts are as follows.

Plaintiff George Philip ("Philip") is an African-American man. He has been employed by Defendant Ford Motor Company ("Ford") at its Twin Cities Assembly Plant since April of 1988.

Philip suffers from several medical conditions, including bilateral carpal tunnel syndrome and a misalignment of the vertebrae (which results in spinal cord impingement in his lower back). Because of these medical conditions, Philip's physicians have imposed a number of work restrictions relating to his ability to perform repetitive tasks, to use vibrating tools, to engage in even moderate repeated lifting, and to remain in a fixed position for an extended period of time.

The Court previously held that Philip had created a genuine issue of material fact with respect to whether he was disabled within the meaning of the American's with Disabilities Act. Moreover, the Court concluded that, while most of Philip's claims for racial discrimination were barred by applicable statutes of limitations, Philip could go to trial on the question of whether Ford's refusal to accommodate Philip's physical impairments was motivated by racial animus.

Discussion

1. Motion for Summary Judgment

a. Standard of Review

Summary judgment is proper if there are no disputed issues of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). The court must view the evidence and the inferences which may be reasonably drawn from the evidence in the light most favorable to the nonmoving party. *Enterprise Bank v. Magna Bank of Missouri*, 92 F.3d 743, 747 (8th Cir. 1996). However, as the Supreme Court has stated, “[s]ummary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules as a whole, which are designed ‘to secure the just, speedy, and inexpensive determination of every action.’” Fed. R. Civ. P. 1. *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986).

The moving party bears the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. *Enterprise Bank*, 92 F.3d at 747. The nonmoving party must demonstrate the existence of specific facts in the record which create a genuine issue for trial. *Krenik v. County of Le Sueur*, 47 F.3d 953, 957 (8th Cir. 1995). A party opposing a properly supported motion for summary judgment may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine issue for trial. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 256 (1986); *Krenik*, 47 F.3d at 957.

b. Philip’s Disability Discrimination Claims

On this motion for reconsideration, Defendant argues that, in light of the Supreme Court’s ruling in *Toyota Motor Manufacturing v. Williams*, 122 S. Ct. 681 (2002), Philip has not offered evidence

from which a fact-finder could conclude that he is disabled within the meaning of the ADA. A person is disabled within the meaning of the ADA if that person has a physical or mental impairment that substantially limits a major life activity.¹ See 42 U.S.C. § 12102(2)(A).

Philip has been diagnosed with severe bilateral carpal tunnel syndrome, spondylolisthesis of the fifth lumbar and first sacral vertebrae, and degenerative joint disease of the lower back. Although the Complaint does not specify the major life activity for which Philip experiences a substantial limitation, Philip argued, in response to the original motion for summary judgment, that he is substantially limited in the life activities of gripping, lifting, reaching, standing, sitting, and walking.² Dr. John Robrock, in his affidavit and the attached report, indicates that Philip's lower back problems justify, if not require, a 10-pound lifting restriction. Dr. Paul Donahue, in his affidavit, supports a 10- to 25-pound lifting restriction and indicates that Philip has a grip strength of approximately 50 pounds (compared to approximately 120 pounds for someone of Philip's age and size).

In the *Williams* case, the Supreme Court held that "[w]hen addressing the major life activity of performing manual tasks, the central inquiry must be whether the claimant is unable to perform the

¹ Although the language of the Minnesota Human Rights Act is somewhat different, requiring only a "material limitation" rather than a "substantial limitation," "[t]he analysis of disability under both statutes is interchangeable." *Snow v. Ridgeview Medical Center*, 128 F.3d 1201, 1207 n.5 (8th Cir. 1997) (determining that a woman who was not disabled within the meaning of the ADA because she was not substantially limited in a major life activity was similarly not disabled within the meaning of the MHRA).

² In response to this motion for reconsideration, Philip has further asserted that he is substantially limited in the major life activities of sleeping and engaging in sexual relations. Philip has submitted an affidavit to that effect. However, discovery in this case closed in September of 2000, and Philip is only now, for the very first time, making these allegations of sleep difficulties and sexual dysfunction. It is too late in the game for Philip to so radically alter the factual predicate for his claims.

variety of tasks central to most people's daily lives, not whether the claimant is unable to perform the tasks associated with [his] specific job.” *Toyota Motor Manufacturing v. Williams*, 122 S. Ct. at 693. The Court reasoned that any other analysis would circumvent the holding in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999), that an individual claiming substantial impairment of the major life activity of working must show an impairment of the individual's ability to perform a broad class of jobs. If a person could claim substantial impairment of his or her ability to perform the manual tasks associated with his or her job, “*Sutton*’s restriction on claims of disability based on a substantial limitation in working [would] be rendered meaningless because an inability to perform a specific job always can be recast as an inability to perform a ‘class’ of tasks associated with that specific job.” *Toyota Motor Manufacturing v. Williams*, 122 S. Ct. at 693.

The Supreme Court's reasoning applies with equal force to claims of substantial impairment of other life activities—such as lifting, sitting, walking, standing, and gripping—which could be referenced to avoid the limitations imposed by *Sutton*. In other words, in order to avoid rendering *Sutton* meaningless, a person claiming substantial limitation in any of these major life activities must demonstrate that the limitation affects the person's ability “to perform the variety of tasks central to most people's daily lives”; a person alleging one of these substantial limitations may not simply assert that the limitation affects the person's ability to perform his or her job.

Philip has not identified any substantial impairment to any “tasks central to most people's daily lives.” Indeed, in his deposition, Philip indicated that he mows his own yard with a self-propelled lawnmower; he uses a weed whacker; he dresses, grooms, and feeds himself; he washes his own car by hand; he barbeques; he walks up and down stairs without difficulty; he ties his own shoelaces and

neckties; and he even works out a bit—lifting a small dumbbell occasionally, walking on a treadmill, riding a stationary bike, doing crunches, doing leg-lifts, and doing squats. In short, the record indicates that the only substantial limitation created by his physical restrictions are substantial limitations in his ability to perform certain tasks at work. Under the reasoning in *Williams*, that is simply not enough.

The Court concludes, that, in light of *Williams*, Philip is as a matter of law not disabled as that term is defined by the ADA and, consequently, the MHRA. As a result, his disability discrimination claims must fail.

c. Philip’s Race Discrimination Claims

Philip argues that his race discrimination claim is independent of his disability discrimination claim, but the Court finds this argument unpersuasive. Once time-barred discriminatory acts are stripped away, Philip’s only remaining race discrimination claim is that Ford’s refusal to accommodate his physical impairment was racially motivated.

Specifically, Philip argues that the ADA required Ford to “grandfather” him into a position which accommodated his physical limitation or to otherwise place him in such a position. The actions Philip alleges Ford should have taken would have involved Ford ignoring Philip’s seniority in an effort to accommodate his disability. Philip asserts that Ford bypassed the seniority requirements of Ford’s collective bargaining agreement to accommodate “similarly situated” white employees, *i.e.*, white employees with disabilities.

The Court agrees with Ford that, because Philip was not disabled and he was thus not legally entitled to an accommodation, Ford’s failure to accommodate his physical limitation does not constitute an adverse employment action.

For the reasons stated, **IT IS HEREBY ORDERED:**

1. Defendant's Motion for Reconsideration of Summary Judgment (Doc. No. 73) is

GRANTED and the **COMPLAINT** is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 8, 2002

DONOVAN W. FRANK
Judge of United States District Court