

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA

Susan Kinder v. Marion County Prosecutor's Office and Celita Scott

Kinder v. Marion County Prosecutor's Office, No. 1:24-cv-00856-TWP-MJD (S.D. Ind. Mar. 2, 2026) · No. 1:24-cv-00856-TWP-MJD · Decided March 2, 2026

SUMMARY

The United States District Court for the Southern District of Indiana granted summary judgment to the Marion County Prosecutor's Office and Celita Scott on Susan Kinder's Title VII retaliation claims concerning denial of a major felony secretary position and issuance of a verbal warning. The court held that neither action constituted a materially adverse employment action and that Kinder failed to establish a causal connection to her protected activity. The court also denied Kinder's embedded motion for spoliation sanctions, finding no evidence of bad-faith destruction or prejudice.

CASE DETAILS

COURT	United States District Court for the Southern District of Indiana
WRITING FOR THE COURT	Tanya Walton Pratt
JURISDICTION	United States District Court for the Southern District of Indiana
DECIDED	March 2, 2026
DOCKET	1:24-cv-00856-TWP-MJD
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment on the plaintiff's remaining Title VII retaliation claims. The plaintiff embedded a motion for sanctions for spoliation of evidence in her response brief. The court granted summary judgment to defendants and denied the sanctions motion.
STANDARD OF REVIEW	Summary judgment is proper when the record shows no genuine dispute of material fact and the movant is entitled to judgment as a matter of law. The court viewed the facts and reasonable inferences in the light most favorable to the nonmoving party, but disregarded speculation and conclusory assertions unsupported by admissible evidence. The spoliation request was evaluated under the requirement that the plaintiff show intentional destruction of evidence in bad faith and resulting prejudice.

PRECEDENTIAL VALUE	unpublished district court order; persuasive but not precedential
PARTIES	Susan Kinder v. Marion County Prosecutor's Office, Celita Scott

TOPICS

title vii retaliation summary judgment sanctions evidence

PRACTICE AREAS

employment law civil rights civil procedure evidence

QUESTIONS PRESENTED

1. Whether the denial of the major felony secretary position constituted a materially adverse employment action for purposes of Kinder's Title VII retaliation claim.
2. Whether the issuance of a verbal warning accompanied by an unfulfilled threat of further discipline constituted a materially adverse employment action.
3. Whether Kinder presented sufficient evidence of but-for causation between her protected activity and either challenged employment action.
4. Whether Kinder was entitled to spoliation sanctions or an adverse inference based on the destruction or nonproduction of interview notes.

HOLDINGS

1. Denial of a purely lateral transfer with no additional pay or other demonstrated material change in employment terms is not a materially adverse employment action under Title VII retaliation law.
2. A verbal warning that is not placed in the employee's personnel or permanent record, and an unfulfilled threat of future discipline, do not constitute materially adverse employment actions absent a tangible job consequence.
3. Kinder failed to establish the required but-for causal connection between her protected activity and either the denial of the secretary position or the verbal warning.
4. Spoliation sanctions and an adverse inference were unwarranted because Kinder failed to show that interview notes were intentionally destroyed in bad faith or that their loss caused prejudice.

KEY QUOTATIONS

"To survive summary judgment on her retaliation claims, Kinder must offer evidence of "(1) a statutorily protected activity; (2) a materially adverse action taken by the employer; and (3) a causal connection between the two."" (§ III.A)

"Denial of a purely lateral transfer is not an adverse employment action under Title VII." (§ III.A.1)

"Title VII retaliation claims must be proved according to traditional principles of but-for causation" (§ III.A.2)

“The crucial element in a spoliation claim is not the fact that the documents were destroyed but that they were destroyed for the purpose of hiding adverse information.” (§ III.B)

FACTUAL BACKGROUND

Kinder, a white female employee of the Marion County Prosecutor's Office, had previously filed an EEOC charge and a federal discrimination lawsuit. She later applied for two major felony secretary positions, but a unanimous interview panel selected other candidates; the positions were lateral transfers that would not have increased her pay. After several workplace incidents involving access procedures, interactions with a food-service employee, and attendance and coverage policies, she received a verbal warning that was not placed in her personnel or permanent record. Kinder alleged that the denial of the secretary position and the warning were retaliation for her prior protected activity and sought sanctions based on the later loss of interview notes.

PROCEDURAL HISTORY

Kinder filed this action on May 22, 2024, and amended her complaint on September 5, 2024. The court previously dismissed several claims, leaving Title VII retaliation claims against the Marion County Prosecutor's Office concerning denial of a major felony secretary position and issuance of a verbal warning with a threat of further discipline. Defendants moved for summary judgment; the court granted the motion, dismissed the remaining claims with prejudice, denied the spoliation-sanctions motion, and directed that final judgment issue separately.

DISPOSITION

other

CASES CITED

- *Zerante v. DeLuca*, 555 F.3d 582, 584 (7th Cir. 2009)
- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)
- *Kinder v. Marion County Prosecutor's Office*, 2024 WL 2836481, at *7 (S.D. Ind. Apr. 2, 2024)
- *Kinder v. Marion County Prosecutor's Office*, No. 24-1952, 2025 WL 914342, at *6 (7th Cir. 2025)
- *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986)
- *Hemsworth v. Quotesmith.com, Inc.*, 476 F.3d 487, 489-90 (7th Cir. 2007)
- *Dorsey v. Morgan Stanley*, 507 F.3d 624, 627 (7th Cir. 2007)
- *Sink v. Knox County Hosp.*, 900 F. Supp. 1065, 1072 (S.D. Ind. 1995)
- *Ritchie v. Glidden Co.*, 242 F.3d 713, 723 (7th Cir. 2001)
- *Chiamonte v. Fashion Bed Grp., Inc.*, 129 F.3d 391, 395 (7th Cir. 1997)
- *Baines v. Walgreen Co.*, 863 F.3d 656, 661 (7th Cir. 2017)
- *Humphries v. CBOCS West, Inc.*, 474 F.3d 387, 403-04 (7th Cir. 2007), *aff'd*, 553 U.S. 442 (2008)
- *Hilt-Dyson v. City of Chicago*, 282 F.3d 456, 465-66 (7th Cir. 2002)
- *Ribando v. United Airlines, Inc.*, 200 F.3d 507, 510 (7th Cir. 1999)

- *Saggu v. Dejoy*, 2021 WL 1165106, at *12 (N.D. Ill. Mar. 26, 2021)
- *Dandy v. United Parcel Serv., Inc.*, 388 F.3d 263, 275 (7th Cir. 2004)
- *Patt v. Family Health Systems, Inc.*, 280 F.3d 749, 745-55 (7th Cir. 2002)
- *Porter v. City of Chicago*, 700 F.3d 944, 954 (7th Cir. 2012)
- *Crady v. Liberty Nat'l Bank & Trust Co.*, 993 F.2d 132, 136 (7th Cir. 1993)
- *Grube v. Lau Indus., Inc.*, 257 F.3d 723, 729 (7th Cir. 2001)
- *Kersting v. Wal-Mart Stores, Inc.*, 250 F.3d 1109, 1118-19 (7th Cir. 2001)
- *Vance v. Ball State Univ.*, 646 F.3d 461, 475 (7th Cir. 2011)
- *Poullard v. McDonald*, 829 F.3d 844, 856-57 (7th Cir. 2016)
- *Lewis v. Wilkie*, 909 F.3d 858, 870 (7th Cir. 2018)
- *Univ. of Texas Sw. Med. Ctr. v. Nassar*, 570 U.S. 338, 360 (2013)
- *Abrego v. Wilkie*, 907 F.3d 1004, 1015 (7th Cir. 2018)
- *Gracia v. SigmaTron Int'l, Inc.*, 842 F.3d 1010, 1019, 1021 (7th Cir. 2016)
- *Giannopoulos v. Brach & Brock Confections, Inc.*, 109 F.3d 406, 410 (7th Cir. 1997)
- *Downing v. Abbott Lab'ys*, 48 F.4th 793, 812 (7th Cir. 2022)
- *Norman-Nunnery v. Madison Area Tech. Coll.*, 625 F.3d 422, 428 (7th Cir. 2010)
- *In re Text Messaging Antitrust Litig.*, 46 F. Supp. 3d 788, 797 (N.D. Ill. 2024)
- *Stoller v. CMH Mfg. West Inc.*, 2020 WL 616464, at *3 (N.D. Ill. Feb. 10, 2020)
- *Rummery v. Illinois Bell Tel. Co.*, 250 F.3d 553, 558 (7th Cir. 2001)