

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, CHARLOTTESVILLE DIVISION

Terrell v. UVA Health System

Terrell · No. 3:26-CV-00036 · Decided April 24, 2026

SUMMARY

The United States District Court for the Western District of Virginia dismissed without prejudice Kathy (also identified in the opinion as Kathey) Terrell’s Title VII, ADEA, and ADA claims against UVA Health System. The court held that she failed to adequately allege an adverse employment action, constructive discharge, or a sufficiently severe or pervasive hostile work environment, and also noted additional deficiencies in her allegations. The dismissal followed the court’s initial screening of her in forma pauperis complaint under 28 U.S.C. § 1915(e)(2)(B).

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Charlottesville Division
WRITING FOR THE COURT	Norman K. Moon
JURISDICTION	United States District Court for the Western District of Virginia, Charlottesville Division
DECIDED	April 24, 2026
DOCKET	3:26-CV-00036
DISPOSITION	dismissed
PROCEDURAL POSTURE	After granting Plaintiff leave to proceed in forma pauperis, the district court conducted the required initial screening of her Title VII, ADEA, and ADA complaint and dismissed it without prejudice for failure to state a claim.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), an in forma pauperis complaint may be dismissed sua sponte if frivolous, malicious, or failing to state a claim. The failure-to-state-a-claim inquiry applies the same standard as Federal Rule of Civil Procedure 12(b)(6): the complaint must contain enough factual matter to state a facially plausible claim, with well-pleaded factual allegations accepted as true and reasonable inferences drawn in the plaintiff’s favor.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion and order

TOPICS

motions to dismiss

employment discrimination

title vii

age discrimination

ada / disability

PRACTICE AREAS

employment law

civil rights

employment discrimination

civil procedure

QUESTIONS PRESENTED

1. Whether the complaint stated Title VII, ADEA, or ADA disparate-treatment claims when the plaintiff alleged criticism, administrative leave, and a voluntary resignation but did not adequately plead a qualifying adverse employment action.
2. Whether the complaint stated Title VII, ADEA, or ADA hostile-work-environment claims based primarily on criticism of the plaintiff's work performance.
3. Whether the complaint was subject to dismissal under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim.

HOLDINGS

1. The complaint failed to state disparate-treatment claims under Title VII, the ADEA, or the ADA because Terrell did not adequately plead an adverse employment action. Her two-day administrative leave, even assuming it qualified as an adverse action, was the basis of claims filed outside the applicable 300-day Title VII limitations period, and her resignation was voluntary rather than a constructive discharge.
2. The complaint failed to state hostile-work-environment claims under Title VII, the ADEA, or the ADA because the alleged criticism of Terrell's performance was not alleged to be discriminatory and was neither severe nor pervasive enough to alter the conditions of employment or create an abusive working environment.
3. Dismissal without prejudice was required because the complaint failed to state a claim as a matter of law under 28 U.S.C. § 1915(e)(2)(B).

KEY QUOTATIONS

“To survive this stage, a plaintiff’s complaint must allege “enough facts to state a claim to relief that is plausible on its face.”” (Section I)

“To overcome this general rule, a plaintiff who resigned must show that she was constructively discharged.” (Section III.A)

“The severe or pervasive conduct giving rise to an abusive work environment must be objectively and subjectively “hostile” and “abusive.”” (Section III.B)

FACTUAL BACKGROUND

Terrell, a 66-year-old African American woman, worked for UVA Health System as a customer service representative from April 2024 until she resigned in May 2025. Her supervisor criticized her performance,

placed her on administrative leave, and warned that she could be terminated if her performance did not improve; Terrell alleged that younger or white employees were treated more favorably in some respects. She later took short-term disability leave, received an erroneous email indicating that she would be terminated, was told the email resulted from a misunderstanding, and resigned rather than returning to work. She did not identify the nature of her medical condition or allege facts connecting it to discrimination.

PROCEDURAL HISTORY

Terrell filed an employment-discrimination complaint against UVA Health System and moved to proceed in forma pauperis. The court granted IFP status and screened the complaint under 28 U.S.C. § 1915(e)(2)(B), applying the Rule 12(b)(6) standard. The court concluded that the complaint failed to state disparate-treatment or hostile-work-environment claims and dismissed the action without prejudice, administratively closing the case.

DISPOSITION

dismissed

CASES CITED

- *Eriline Co. S.A. v. Johnson*, 440 F.3d 648, 656 (4th Cir.)
- *Michau v. Charleston Cnty.*, 434 F.3d 725, 728 (4th Cir.)
- *Minter v. Clarke*, 2022 WL 4537904, at *3 (E.D. Va. Sep. 12, 2022)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)
- *Kensington Volunteer Fire Dep't, Inc. v. Montgomery Cnty.*, 684 F.3d 462, 467 (4th Cir.)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009)
- *Perkins v. Int'l Paper Co.*, 936 F.3d 196, 207 (4th Cir.)
- *Westmoreland v. TWC Admin. LLC*, 924 F.3d 718, 725 (4th Cir.)
- *Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167, 180 (2009)
- *Jacobs v. N.C. Admin. Off. of the Courts*, 780 F.3d 562, 572 (4th Cir.)
- *EEOC v. Stowe-Pharr Mills, Inc.*, 216 F.3d 373, 377 (4th Cir.)
- *Gentry v. E. W. Partners Club Mgmt. Co.*, 816 F.3d 228, 236 (4th Cir.)
- *Credle v. Virginia Cmty. Coll. Sys.*, 2025 WL 27827, at *7 (E.D. Va. Jan. 3, 2025), *aff'd*, No. 25-1072, 2026 WL 509313 (4th Cir. Feb. 24, 2026)
- *Hughes v. Navy Fed. Credit Union*, 2012 WL 32404, at *8 (E.D. Va. Jan. 4, 2012)
- *Satterfield v. City of Chesapeake, Va.*, 2021 WL 4812452, at *7 (E.D. Va. Oct. 14, 2021)
- *Evans v. Davie Truckers, Inc.*, 769 F.2d 1012, 1014 (4th Cir.)
- *Rizvi v. Loudoun Cnty. Sch. Bd.*, 2025 WL 3514256, at *9 n.28 (E.D. Va. Dec. 5, 2025)
- *Ofoche v. Apogee Med. Grp., Virginia, P.C.*, 815 F. App'x 690, 692 (4th Cir.)
- *Green v. Brennan*, 578 U.S. 547, 555 (2016)
- *Carter v. Ball*, 33 F.3d 450, 459 (4th Cir.)
- *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57, 65-67 (1986)

- *McIver v. Bridgestone Americas, Inc.*, 42 F.4th 398, 407 (4th Cir.)
- *Okoli v. City of Baltimore*, 648 F.3d 216, 220 (4th Cir.)
- *Brackney-Wheelock v. City of Charlottesville*, 652 F. Supp. 3d 603, 628 (W.D. Va.)
- *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21-22 (1993)
- *Boyer-Liberto v. Fontainebleau Corp.*, 786 F.3d 264, 277 (4th Cir.)
- *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1998)
- *Spriggs v. Diamond Auto Glass*, 242 F.3d 179, 182-84 (4th Cir.)

OPINION

UNITED STATES DISTRICT COURT CLERK A S T O C H F F A I R C L E O U T S T E D S I S
V T I L R L I E C, T V C A O U R T W E S T E R N D I S T R I C T O F V I R G I N I A F I L E D
CHARLOTTESVILLE DIVISION April 24, 2026 LAURA A. AUSTIN, CLERK BY: /s/ Kayla
Lokey KATHY TERRELL, DEPUTY CLERK Plaintiff, CASE NO. 3:26-CV-00036 v. UVA
HEALTH SYSTEM, MEMORANDUM OPINION & ORDER Defendant. JUDGE NORMAN K.
MOON Plaintiff Kathey Terrell (“Terrell”)—who briefly worked for UVA Health System as a
customer service representative—filed this Title VII, Age Discrimination in Employment Act
(“ADEA”), and Americans with Disability Act (“ADA”) action against her former employer.

See Dkt. 1. Rather than paying the \$405 filing fee, she moved for leave to proceed in forma
pauperis, see Dkt. 2, which the Court granted, see Dkt. 3. Given her IFP status, the Court will
conduct an initial screening of her complaint, see *Eriline Co. S.A. v. Johnson*, 440 F.3d 648, 656
(4th Cir. 2006), and dismiss any claims that fail as a matter of law. See 28 U.S.C. § 1915(e)(2)(B)
(i)-(ii).

Because her complaint fails to state a claim for race, age, or disability discrimination, her case
must be dismissed. I. LEGAL STANDARD 28 U.S.C. § 1915(e) permits district courts to, on their
own motion, dismiss in forma pauperis complaints that are frivolous, malicious, or fail to state a
claim. See 28 U.S.C. § 1915(e)(2)(B); *Michau v. Charleston Cty.*, 434 F.3d 725, 728 (4th Cir.

2006). This procedural vehicle is governed by the same standard as a motion to dismiss under
Federal Rule of Civil Procedure 12(b)(6). *Minter v. Clarke*, 2022 WL 4537904, at *3 (E.D. Va.
Sep. 12, 2022) (comparing standards).

To survive this stage, a plaintiff’s complaint must allege “enough facts to state a claim to relief that
is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). A court must
accept a plaintiff’s factual allegations as true and must draw all reasonable inferences in the
plaintiff’s favor. *Kensington Volunteer Fire Dep’t, Inc. v. Montgomery Cnty.*, 684 F.3d 462, 467
(4th Cir.

2012). Although a complaint “does not need detailed factual allegations,” a plaintiff must provide
“more than labels and conclusions [or] a formulaic recitation of the elements of a cause of action”

in order to “state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570; see *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). II. BACKGROUND Terrell is a 66-year-old, African American female who had an undisclosed “medical condition” that required her to take short-term disability from her job at UVA Health.

Dkt. 1-3 ¶¶ 20, 27, 35. She worked for UVA Health from April 15, 2024 to May 22, 2025; however, she was on short-term disability leave from December 9, 2024, until she resigned. Dkt. 1-1 ¶¶ 1, 13, 18. She claims that her supervisor, Shirley Cromer (“Cromer”), criticized her at a meeting on August 23, 2024, noting that she seemed “preoccupied” and “unable to focus.” Id. ¶ 2.

At that meeting, Cromer allegedly suggested that Terrell should resign if her sister’s illness was going to affect her job performance. Id. Cromer also criticized Terrell for asking customers to repeat themselves during phone calls. Id. Four days later, Cromer assigned Terrell a “code testing” task—which involved placing emergency calls to pagers to ensure they were working.

Id. ¶ 4. Cromer allegedly instructed Terrell to set her phone to “unavailable” during the test, which required other employees to answer the incoming callers who were responding to the emergency page. Id. ¶ 5. After the test was complete, Cromer reprimanded Terrell for making herself “unavailable,” which required her co-workers to answer the responding callers.

Id. ¶ 6. Terrell alleges that other white employees were not criticized for performing their code testing responsibilities together, as opposed to individually. Id. ¶ 7. On September 18, 2024, Terrell had a meeting with Cromer and a human resources representative, where she was informed that she could be terminated if her performance did not improve. Id. ¶ 8.

Terrell was told her training was not progressing as expected, including her equipment training and emergency call training. Id. She was specifically told she needed additional training on ordering equipment for hospital floors. Id. ¶ 11. She was placed on a two-day administrative leave; but returned to work with no “clear explanation for the disciplinary action.” Id. ¶ 10.

She claims that four younger employees who had been employed with UVA Health longer than she had were also not finished with their equipment ordering training; but that those younger employees had not been criticized by management for their lack of progress. Id. ¶ 12. Terrell went on short-term disability leave on December 9, 2024, with an approved return- to-work date of May 23, 2025.

Id. ¶ 13. On May 16, 2025, she received an email from human resources indicating she was going to be terminated. Id. ¶ 14. After contacting human resources, Terrell was told she was not being terminated and that the email had been generated in error based on a misunderstanding about her disability leave. Id. ¶ 17. Rather than returning to work, Terrell quit on May 22, 2025.

Id. ¶ 18. III. DISCUSSION A. Disparate Treatment Title VII renders it unlawful for an employer to “discriminate against any individual with respect to [her] compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.” 42 U.S.C. § 2000e–2(a)(1).

The elements of a disparate treatment claim under Title VII are “(1) membership in a protected class; (2) satisfactory work performance; (3) adverse employment action; and (4) different treatment from similarly situated employees outside the protected class.” *Perkins v. Int’l Paper Co.*, 936 F.3d 196, 207 (4th Cir. 2019).

The ADEA makes it “unlawful for an employer... to discharge any individual or otherwise discriminate against any individual... because of such individual’s age.” 29 U.S.C. § 623(a). The elements of a *prima facie* case for age discrimination are: (1) at the time of the adverse employment action plaintiff was at least 40 years of age; (2) she was qualified for the job and performing in accordance with her employer’s legitimate expectations; (3) her employer nonetheless took adverse action against her; and (4) a substantially younger individual with comparable qualifications was treated differently.

See *Westmoreland v. TWC Admin. LLC*, 924 F.3d 718, 725 (4th Cir. 2019). Unlike with Title VII claims, ADEA claims require proof that age was a “but-for” cause of the adverse employment action. *Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167, 180 (2009).¹ The ADA makes it unlawful for covered employers to “discriminate against a qualified individual on the basis of disability.” 42 U.S.C. § 12112(a) (2012). “To establish a claim for disability discrimination under the ADA, a plaintiff must prove ‘(1) that she has a disability, (2) that she is a ‘qualified individual’ for the employment in question, and (3) that [her employer] discharged her (or took other adverse employment action) because of her disability.’” *Jacobs v. N.C.*

Admin. Off. of the Courts, 780 F.3d 562, 572 (4th Cir. 2015) (quoting *EEOC v. Stowe-Pharr Mills, Inc.*, 216 F.3d 373, 377 (4th Cir. 2000)). Specifically, the plaintiff’s disability must be a but- 1 “[A]n employee cannot prevail on an age discrimination claim by showing that age was one of multiple motives for an employer’s decision; the employee must prove that the employer would not have fired her in the absence of age discrimination.” *Westmoreland*, 924 F.3d at 725. for cause of the plaintiff’s discharge.

See *Gentry v. E. W. Partners Club Mgmt. Co.*, 816 F.3d 228, 236 (4th Cir. 2016). Title VII, the ADEA, and the ADA all require proof of an adverse employment action. Here, Terrell alleges she was placed on two days of administrative leave beginning on September 18, 2024. Dkt. 1-1 ¶ 10. Courts in the Fourth Circuit have held that placement on administrative leave with pay does not constitute an adverse employment action.

See *Credle v. Virginia Cmty. Coll. Sys.*, 2025 WL 27827, at *7 (E.D. Va. Jan. 3, 2025), *aff'd*, No. 25-1072, 2026 WL 509313 (4th Cir. Feb. 24, 2026). However, even if it did, Terrell did not file her EEOC charge until October 17, 2025— 389 days after she was placed on administrative leave. See Dkt. 1-5 at 5.

Therefore, any discrimination claim based on this administrative leave is untimely. See *Hughes v. Navy Fed. Credit Union*, 2012 WL 32404, at *8 (E.D. Va. Jan. 4, 2012) (“[A] Title VII Charge must be filed within 300 days of the adverse action.”). Terrell concedes she voluntarily resigned from her employment on May 22, 2025. Dkt. 1- 1 ¶ 18. Generally, a “personal choice” to “voluntarily resign does not constitute an adverse employment action, even if there are pending disciplinary matters.” *Satterfield v. City of Chesapeake, Va.*, 2021 WL 4812452, at *7 (E.D.

Va. Oct. 14, 2021); see also *Evans v. Davie Truckers, Inc.*, 769 F.2d 1012, 1014 (4th Cir. 1985). To overcome this general rule, a plaintiff who resigned must show that she was constructively discharged. *Rizvi v. Loudoun Cnty. Sch. Bd.*, 2025 WL 3514256, at *9, n.28 (E.D. Va. Dec. 5, 2025). This is a high standard, which requires a plaintiff to show that “she was discriminated against by her employer to the point where a reasonable person in her position would have felt compelled to resign.” *Ofoche v. Apogee Med.*

Grp., Virginia, P.C., 815 F. App’x 690, 692 (4th Cir. 2020) (quoting *Green v. Brennan*, 578 U.S. 547, 555 (2016)). “Dissatisfaction with work assignments, a feeling of being unfairly criticized, or difficult or unpleasant working conditions are not so intolerable as to compel a reasonable person to resign.” *Carter v. Ball*, 33 F.3d 450, 459 (4th Cir. 1994).

Here, Terrell’s allegations come nowhere close to alleging constructive discharge. Accordingly, Terrell’s Title VII, ADEA, and ADA disparate treatment claims all fail because she has not adequately pleaded an adverse employment action.² B. Hostile Work Environment Given the requirement to liberally construe Terrell’s complaint, the Court will consider whether she has stated Title VII, ADEA, or ADA hostile work environment claims.

An employer contravenes these anti-discrimination statutes by requiring an employee to work in an environment that is hostile to her gender, age or disability. See *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57, 65–67 (1986).

To succeed on a hostile-work-environment claim a plaintiff must show that there is: “(1) unwelcome conduct; (2) that is based on the plaintiff’s... [sex, age, or disability]; (3) which is sufficiently severe or pervasive to alter the plaintiff’s conditions of employment and to create an abusive work environment; and (4) which is imputable to the employer.” *McIver v. Bridgestone Americas, Inc.*, 42 F.4th 398, 407 (4th Cir.

2022); see also *Okoli v. City of Baltimore*, 648 F.3d 216, 220 (4th Cir. 2011)). This type of claim fails unless “the workplace is permeated with discriminatory intimidation, ridicule, and insult that

is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment." *Brackney-Wheelock v. City of Charlottesville*, 652 F. Supp. 3d 603, 628 (W.D.

Va. 2023) (quoting *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993)). 2 Her claims fail for other reasons as well. For example, she never alleges the nature of her disability or how any such disability led to discrimination at work. This would independently doom her ADA claim. She also fails to allege she was meeting her employer's legitimate expectations.

To the contrary, her pleadings concede that UVA Health had legitimate concerns about her performance. E.g., Dkt. 1-1 ¶ 2. This too dooms her Title VII, ADEA, and ADA claims. The severe or pervasive conduct giving rise to an abusive work environment must be objectively and subjectively "hostile" and "abusive." *Harris*, 510 U.S. at 21–22. Courts look to "all the circumstances," including "the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance." *Boyer-Liberto*, 786 F.3d at 277.

The ultimate inquiry, though, is whether the conduct is so "extreme" as to "amount to a change in the terms and conditions of employment." *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1998). Terrell's allegations—which include that her performance was criticized by her supervisor—are not even obviously discriminatory, much less the type of severe and abusive discrimination that constitutes a hostile work environment.

Her allegations stand in sharp contrast to the allegations in *Okoli* and *Spriggs*, which the Fourth Circuit found to be sufficiently severe and pervasive to constitute a hostile work environment. See *Okoli*, 648 F.3d at 220 (plaintiff "present[ed] a strong claim for hostile work environment" where, in four months, she experienced (1) disparaging jokes about gays and lesbians; (2) comments about herself and a Jacuzzi fantasy; (3) comments about herself and group sex fantasy; (4) questions about her underwear; (5) comments about sexual relations with another African-American woman; (6) additional inquiries about her sitting on a lap and Jacuzzi fantasy; (7-10) several incidents of fondling her leg under a table; (11) forcible kissing; and (12) more propositions to join in a Jacuzzi fantasy); *Spriggs v. Diamond Auto Glass*, 242 F.3d 179, 182-84 (4th Cir.

2001) (plaintiff demonstrated harassment was severe and pervasive where he was exposed on a "continuous daily" basis to blatantly racist slurs). Therefore, to the extent Terrell even intended to raise hostile work environment claims, those too must be dismissed for failure to state a claim. IV. CONCLUSION Accordingly, Terrell's complaint is dismissed without prejudice.

The Clerk shall administratively close this case and mail a copy of this Order to Plaintiff at her last known address. It is so ordered. Entered this 24th day of April, 2026.

