

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI, NORTHERN DIVISION

Oshaunda McKinney v. The Mississippi School for Mathematics and
Science, et al.

Civil Action No. 3:24-CV-489-DPJ-ASH · No. Civil Action No. 3:24-CV-489-DPJ-ASH · Decided April 13,
2026

SUMMARY

The United States District Court for the Southern District of Mississippi addressed Defendants’ motion for summary judgment in Oshaunda McKinney’s employment-discrimination and retaliation action against the Mississippi School for Mathematics and Science and related defendants. The court granted summary judgment on the abandoned age-discrimination claim, unexhausted Title VII retaliation claim, Fourteenth and First Amendment retaliation claims, and Title VII punitive-damages claim. It denied summary judgment on the race-discrimination claims under Title VII, 42 U.S.C. §§ 1981 and 1983, finding genuine fact issues regarding pretext and whether race motivated the termination.

CASE DETAILS

COURT	United States District Court for the Southern District of Mississippi, Northern Division
WRITING FOR THE COURT	Daniel P. Jordan III
JURISDICTION	United States District Court for the Southern District of Mississippi, Northern Division
DECIDED	April 13, 2026
DOCKET	Civil Action No. 3:24-CV-489-DPJ-ASH
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought claims for race discrimination and retaliation under Title VII, 42 U.S.C. §§ 1981 and 1983, and the First and Fourteenth Amendments. Defendants moved for summary judgment under Federal Rule of Civil Procedure 56. The court granted the motion in part, denied it in part, and reserved ruling on certain Ex parte Young remedies.
STANDARD OF REVIEW	Summary judgment is proper under Federal Rule of Civil Procedure 56(a) when there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law. The court viewed disputed

	facts and reasonable inferences in favor of the nonmovant, without making credibility determinations or weighing evidence.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Oshaunda McKinney v. The Mississippi School for Mathematics and Science, Ginger Tedder, Donald Cook, Amy Elmore, Other defendants

TOPICS

employment discrimination racial discrimination retaliation summary judgment qualified immunity

PRACTICE AREAS

employment law civil rights constitutional law civil procedure remedies

QUESTIONS PRESENTED

1. Whether defendants were entitled to summary judgment on McKinney's Title VII, Section 1981, and Section 1983 race-discrimination claims.
2. Whether McKinney exhausted administrative remedies for her Title VII retaliation claim.
3. Whether defendants waived the exhaustion defense.
4. Whether McKinney presented a genuine dispute regarding protected activity and causation for her Section 1981 retaliation claim.
5. Whether the Fourteenth Amendment Equal Protection Clause supports a workplace-retaliation claim.
6. Whether McKinney's workplace complaints were protected speech under the First Amendment.
7. Whether Cook and Elmore were entitled to qualified immunity.
8. Whether McKinney's requested reinstatement under *Ex parte Young* was premature for resolution at summary judgment.
9. Whether punitive damages are available under Title VII.

HOLDINGS

1. Summary judgment was denied because the evidence created a genuine dispute over whether defendants' stated reasons for terminating McKinney were pretextual and whether race was a motivating factor.
2. McKinney's Title VII retaliation claim was dismissed because her EEOC charge alleged race and age discrimination but did not allege retaliation or facts reasonably expected to trigger a retaliation investigation.
3. Defendants did not waive the exhaustion defense because their answer placed McKinney on notice of challenges to claims outside the EEOC charge, and the defense was alternatively raised at a pragmatically sufficient time without demonstrated prejudice.

4. Summary judgment was denied because the evidence created fact questions whether McKinney engaged in protected activity and whether that activity caused her termination.
5. Summary judgment was granted because the Equal Protection Clause does not independently prohibit workplace retaliation.
6. Summary judgment was granted because McKinney's complaints about workplace conduct, made internally to her immediate supervisor in the context of workplace disputes, were not speech by a citizen on a matter of public concern.
7. Summary judgment was denied on qualified immunity because fact disputes existed regarding whether Cook and Elsmore violated McKinney's statutory or constitutional rights, and the relevant rights were clearly established.
8. The court declined to resolve the availability of reinstatement at summary judgment because reinstatement is an equitable remedy determined if the plaintiff prevails, and the dispute over available positions was premature.
9. The Title VII punitive-damages claim was dismissed because McKinney conceded that punitive damages were unavailable under Title VII.

KEY QUOTATIONS

“Summary judgment is warranted under Federal Rule of Civil Procedure 56(a) when evidence reveals no genuine dispute over any material fact and that the moving party is entitled to judgment as a matter of law.”
(Section II)

“For the reasons explained, Defendants’ motion for summary judgment [75] is granted in part and denied in part.” (Section VII)

FACTUAL BACKGROUND

McKinney, a Black administrative assistant at the Mississippi School for Mathematics and Science, alleged that coworker Amy Elsmore treated her with hostility motivated by race. After McKinney raised concerns about race during an informal meeting, Elsmore repeatedly complained about McKinney to executive director Donald Cook. During a recorded meeting, Cook discussed McKinney's interactions with Elsmore, expressed a desire to fire McKinney, and also raised concerns about McKinney's use of streaming websites during work hours. McKinney was terminated, and she contended that the stated computer-use reason was pretext for race discrimination and retaliation.

PROCEDURAL HISTORY

McKinney filed an EEOC charge alleging race and age discrimination and then filed this action asserting seven causes of action. She abandoned her age-discrimination claim, leaving claims for race discrimination, retaliation, constitutional violations, and related remedies. Defendants moved for summary judgment, which the court granted as to the age-discrimination claim, Title VII retaliation, First and Fourteenth Amendment retaliation, and Title VII punitive damages, while denying summary judgment on the race-discrimination claims, Section 1981 retaliation, and qualified immunity.

DISPOSITION

other

CASES CITED

- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Little v. Liquid Air Corp., 37 F.3d 1069, 1075 (5th Cir. 1994) (en banc)
- Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 148, 150 (2000)
- EEOC v. Rite Way Serv., 819 F.3d 235, 239 (5th Cir. 2016)
- Tolan v. Cotton, 572 U.S. 650, 660 (2014)
- TIG Ins. Co. v. Sedgwick James of Wash., 276 F.3d 754, 759 (5th Cir. 2002)
- McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)
- Lauderdale v. Tex. Dep't of Crim. Just., Institutional Div., 512 F.3d 157, 166 (5th Cir. 2008)
- Shater v. Shell Oil Co., No. 22-20289, 2022 WL 17250190, at *1 (5th Cir. Nov. 28, 2022)
- Rachid v. Jack In the Box, Inc., 376 F.3d 305, 312 (5th Cir. 2004)
- Bostock v. Clayton Cnty., 590 U.S. 644, 656 (2020)
- Hager v. Brinker Tex., Inc., 102 F.4th 692, 704 (5th Cir. 2024)
- Gee v. Principi, 289 F.3d 342, 345, 347-48 (5th Cir. 2002)
- Nasti v. CIBA Specialty Chems. Corp., 492 F.3d 589, 594 (5th Cir. 2007)
- Owens v. Circassia Pharm. Inc., 33 F.4th 814, 828-29, 835 (5th Cir. 2022)
- Price v. Fed. Express Corp., 283 F.3d 715, 720 (5th Cir. 2002)
- Davis v. Fort Bend Cnty., 893 F.3d 300, 303, 307 (5th Cir. 2018)
- Filer v. Donley, 690 F.3d 643, 647 (5th Cir. 2012)
- Pacheco v. Mineta, 448 F.3d 783, 789 (5th Cir. 2006)
- Bouvier v. Northrup Grumman Ship Sys., Inc., 350 F. App'x 917, 921 (5th Cir. 2009)
- Jones v. Bock, 549 U.S. 199, 212 (2007)
- United States v. Olano, 507 U.S. 725, 733 (1993)
- Farber v. Crestwood Midstream Ptrs. L.P., 863 F.3d 410, 417 (5th Cir. 2017)
- Woodfield v. Bowman, 193 F.3d 354, 362 (5th Cir. 1999)
- Vanhoy v. United States, 514 F.3d 447, 450 (5th Cir. 2008)
- Ernst v. Methodist Hosp. Sys., 1 F.4th 333, 339 (5th Cir. 2021)
- Smith v. Travelers Cas. Ins. Co. of Am., 932 F.3d 302, 309 (5th Cir. 2019)
- Lee v. United States, 765 F.3d 521, 523-24 (5th Cir. 2014)
- Saketkoo v. Adm'rs of Tulane Educ. Fund, 31 F.4th 990, 1000 (5th Cir. 2022)
- Gillaspay v. Dall. Indep. Sch. Dist., 278 F. App'x 307, 315 (5th Cir. 2008)
- Jackson v. Mississippi, No. 5:12-CV-94-DPJ-FKB, 2012 WL 5185726, at *2 (S.D. Miss. Oct. 18, 2012)
- Elizondo v. Parks, 431 F. App'x 299, 302-03 (5th Cir. 2011)

- *Modica v. Taylor*, 465 F.3d 174, 179-80 (5th Cir. 2006)
- *Garcetti v. Ceballos*, 547 U.S. 410, 420-21 (2006)
- *Johnson v. Halstead*, 916 F.3d 410, 423 (5th Cir. 2019)
- *Necaise v. May*, 700 F. Supp. 3d 469, 482 (S.D. Miss. 2023)
- *Rodriguez v. City of Corpus Christi*, 687 F. App'x 386, 390 (5th Cir. 2017)
- *Flores v. City of Palacios*, 381 F.3d 391, 394 (5th Cir. 2004)
- *Parker v. Blackwell*, 23 F.4th 517, 522 (5th Cir. 2022)
- *Morgan v. Swanson*, 659 F.3d 359, 371 (5th Cir. 2011) (en banc)
- *Roque v. Harvel*, 993 F.3d 325, 335 (5th Cir. 2021)
- *Foley v. Univ. of Hou. Sys.*, 355 F.3d 333, 338-39 (5th Cir. 2003)
- *Martinez v. Val Verde Cnty. Hosp.*, 46 F.3d 66, 1995 WL 29271, at *2 (5th Cir. 1995)
- *McMillian v. Aberdeen Sch. Dist.*, No. 24-60419, 2025 WL 2529928, at *2-4 (5th Cir. July 23, 2025)
- *Garza v. Brownsville Indep. Sch. Dist.*, 700 F.2d 253, 254 (5th Cir. 1983)
- *Funding Sys. Leasing Corp. v. Pugh*, 530 F.2d 91, 95-96 (5th Cir. 1976)
- *Allied Chem. Corp. v. Mackay*, 695 F.2d 854, 856 (5th Cir. 1983)
- *Bettes v. Stonewall Ins. Co.*, 480 F.2d 92, 94 (5th Cir. 1973)