

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Nia Elan Davis v. American Airlines, et al.

Davis · No. CV-25-01992-PHX-KML · Decided February 17, 2026

OPINION

Davis

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Nia Elan Davis, No. CV-25-01992-PHX-KML 10 Plaintiff, ORDER 11 v. 12 American Airlines, et al., 13 Defendants. 14 15 Plaintiff Nia Elan Davis has filed at least four complaints (Docs. 1, 26, 30, 32), 16 requiring her employer, defendant American Airlines, to file three motions to dismiss (Doc. 17 27, 31, 34.) The operative complaint does not contain sufficient facts to state any claim for 18 relief and, given the history of this case, additional leave to amend is not appropriate.

19 BACKGROUND

20 Davis filed her original complaint on June 9, 2025. (Doc. 1.) A little over one month 21 later, Davis filed a “Motion to Accept Waiver of Service.” (Doc. 13.) The court denied that 22 motion after explaining it was not appropriate because it would be up to American Airlines 23 to object to the adequacy of service. (Doc. 14 at 1.) The court informed Davis that although 24 she was proceeding pro se, she was required to comply with the same rules of procedures 25 that apply to all litigants. Davis was also instructed to “ensure her filings compl[ied] with 26 all applicable rules and procedures.” (Doc. 14 at 1.) Despite those warnings, on July 25, 27 2025, Davis filed another “Motion to Accept Waiver of Service.” (Doc. 20.) The court 28 issued a second order denying the motion as “baseless” and reminding Davis she was 1 risking sanctions by ignoring court orders. (Doc. 23 at 2.) 2 On September 8, 2025, the parties filed a joint motion requesting Davis be allowed 3 to amend her complaint. (Doc. 24.) The court granted that motion and, on September 19, 4 2025, Davis filed her amended complaint. (Doc. 26.) American Airlines responded to that 5 complaint by filing its first motion to dismiss. (Doc. 27.) Davis did not oppose that motion 6 and two weeks after the opposition was due, the court granted the motion with leave to 7 amend. (Doc. 29.) In the order granting the motion, the court explained American Airlines 8 had argued Davis did not exhaust her administrative remedies regarding any claim other 9 than retaliation. (Doc. 29 at 2.) Because Davis had not filed an opposition, the court agreed 10 “Davis only exhausted her retaliation claim.” (Doc. 29 at 2.) The court also discussed other 11 problems with the complaint, such as the lack of sufficient factual allegations. (Doc. 29 at 12 2.) As of that

point, Davis was on notice that any future complaint would need significantly 13 more factual allegations than she had provided up to that time. 14 On November 12, 2025, Davis filed a second amended complaint. (Doc. 30.) Two 15 weeks later, American Airlines filed its second motion to dismiss. (Doc. 31.) Before filing 16 that motion American Airlines had conferred with Davis, but the parties were unable to 17 reach an agreement that the second amended complaint could be cured by amendment. 18 (Doc. 31-1 at 1.) Instead of opposing the motion to dismiss, however, Davis filed a third 19 amended complaint. (Doc. 32.) That filing included two different complaints, so the court 20 had to clarify the operative complaint was the document found at Doc. 32 and the parties 21 were to ignore the document found at Doc. 32-1.1 (Doc. 33.) American Airlines filed its 22 third motion to dismiss asking the court to dismiss the third amended complaint. Davis 23 responded to this motion and requested leave to amend if her complaint was found 24 insufficient. (Doc. 35 at 4.) Davis's opposition also contained a citation to a non-existent 25 case. (Doc. 35 at 4.) American Airlines's reply argued the fictitious citation merited 26 sanctions in the form of dismissal. (Doc. 38 at 10.) 27 1 The document found at Doc. 32 contains claims for discrimination based on race, color, sexual orientation, age, and retaliation. (Doc. 32 at 3.) The document found at Doc. 32-1 28 contains a single claim for retaliation. (Doc. 32-1 at 3.) There is no explanation why Davis filed documents containing such different claims. 1 On January 15, 2026, Davis filed a "Notice of Correction and Request for Leave to 2 Amend." (Doc. 39.) In that notice, Davis sought to withdraw the fictitious citation in her 3 opposition. Davis also requested leave to amend the complaint if the motion to dismiss was 4 granted. (Doc. 39.) Given that Davis had already made a request for leave to amend, it is 5 not clear why she made this separate request. 6 Turning to the substance, the third amended complaint begins by stating Davis "was 7 subjected to adverse treatment based on race, color, sexual orientation, and age, and later 8 subject to retaliation for engaging in protected activity." (Doc. 32 at 1.) The complaint does 9 not identify Davis's race, color, sexual orientation, or age. The complaint then includes a 10 list of vague allegations regarding Davis's employment. 11 Davis alleges she has "consistently performed work duties at or above expectations" 12 but she has been excluded from an unidentified "training program" despite unidentified 13 "less qualified individuals" being selected for the program. (Doc. 32 at 2.) Davis raised 14 unspecified "concerns about discrimination and adverse work conditions," but she offers 15 no allegations about when this occurred, to whom Davis complained, or any specifics 16 regarding her "concerns." (Doc. 32 at 2.) After raising her "concerns," Davis "suffered 17 escalating retaliation" that included her managers mentioning "the expiration date of 18 [Davis's] Right-To-Sue letter." (Doc. 32 at 2.) The managers also "falsif[ied] 19 documentation on [Davis's] record and more events past and current which will be 20 available during discovery." (Doc. 32 at 2.) Although not clear, the documentation Davis 21 is referencing may be "[f]alsified coaching and disciplinary documentation." (Doc. 32 at 22 2.) 23 Davis then alleged a bullet-point list of additional acts of retaliation: 24 • Davis received "[t]hreatening messages via Teams Chat" from an 25 unspecified individual sometime in 2024; 26 • Unidentified

individuals “[m]anipulated stats by controlling the types of 27 calls coming to plaintiff and others” at unidentified times in 2024 and 2025; 28 • Davis was “[e]xclu[ded] from advancement opportunities” by unidentified 1 individuals at unidentified times; 2 • Davis was subjected to “[r]epeated verbal hostility” by unidentified 3 individuals at unidentified times; and 4 • Unidentified individuals at unidentified times created “[a]dditional 5 documentation to justify adverse actions after protected activity.” 6 Based on these allegations, Davis calculates she is owed back-pay damages of 7 \$269,400. (Doc. 32 at 3.) As pointed out by American Airlines, Davis also requests “[f]ront 8 pay if reinstatement is not feasible,” despite Davis still being employed by American 9 Airlines. (Doc. 32 at 4.)

10 ANALYSIS

11 American Airlines’s motion to dismiss makes two basic arguments. First, Davis did 12 not exhaust any claim other than retaliation. (Doc. 34 at 5-7.) And second, Davis has not 13 alleged sufficient facts to state a retaliation claim. (Doc. 34 at 7-13.) Both arguments are 14 correct. 15 I. Exhaustion of Administrative Remedies 16 American Airlines argues Davis only exhausted a retaliation claim with the EEOC 17 such that all of her non-retaliation claims must be dismissed. American Airlines made this 18 same argument in an earlier motion to dismiss and, based in large part on Davis’s failure 19 to file an opposition, the court agreed with American Airlines. (Doc. 27 at 6-8; Doc. 29 at 20 2.) Although Davis did respond to the latest motion to dismiss, she still does not address 21 exhaustion. Instead, her opposition might be read as conceding she is only pursuing a 22 retaliation claim. (Doc. 35 at 1) (allegations in third amended complaint “easily meet the 23 standard for retaliation”). But regardless of the previous order regarding exhaustion and 24 the lack of meaningful argument from Davis, American Airlines is correct that Davis only 25 exhausted a retaliation claim. 26 Once a plaintiff files a charge with the EEOC and receives a right-to-sue notice, she 27 may pursue litigation over the claims in the administrative charge alongside additional 28 claims that “are like or reasonably related to the allegations contained in the EEOC charge.” 1 B.K.B. v. Maui Police Dep’t, 276 F.3d 1091, 1100 (9th Cir. 2002) (simplified). In other 2 words, claims are administratively exhausted if they would “fall within the scope of the . . . 3 EEOC investigation that could reasonably be expected to grow out of the charge.” Vasquez 4 v. Cnty. of Los Angeles, 349 F.3d 634, 644 (9th Cir. 2003). When comparing the allegations 5 in an administrative charge to the claims in a civil complaint, the court may consider “the 6 alleged basis of the discrimination, dates of discriminatory acts specified within the charge, 7 perpetrators of discrimination named in the charge, and any locations at which 8 discrimination is alleged to have occurred.” Freeman v. Oakland Unified Sch. Dist., 291 9 F.3d 632, 636 (9th Cir. 2002) (simplified). 10 Davis’s administrative charge focuses on retaliation. That is the sole basis Davis 11 identified in the section of the form asking for her to identify what the alleged 12 “discrimination [was] based on.” (Doc. 34-1 at 12.) And although Davis’s factual 13 allegations in the charge are meandering, they end with “I believed [sic] I have been 14 retaliated against for filing a previous EEOC Charge.” (Doc. 34-1 at 13.) An investigation 15 into the

retaliation referenced in the charge would not have expanded to cover the 16 discrimination based on “race, color, sexual orientation, or age” that Davis now alleges in 17 her third amended complaint. That Davis only intended to make a retaliation claim with 18 the EEOC is supported by the fact that she had filed an earlier EEOC charge alleging she 19 had been discriminated against based on her age, color, race, retaliation, and sex. (Doc. 34- 20 1 at 3.) Thus, Davis knew how to select and describe additional forms of discrimination, 21 but for the EEOC charge underlying her current suit, she chose to raise only retaliation. All 22 of her claims except for retaliation are dismissed for failure to exhaust. *Sommolino v. 23 United States*, 255 F.3d 704, 708 (9th Cir. 2001). 24 II. Failure to State a Claim 25 American Airlines argues Davis has not alleged sufficient facts to state a plausible 26 claim of retaliation. A complaint must contain a “short and plain statement of the claim 27 showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Although Rule 8 28 does not demand detailed factual allegations, “it demands more than an unadorned, the- 1 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). 2 “Threadbare recitals of the elements of a cause of action, supported by mere conclusory 3 statements, do not suffice.” *Id.* 4 A prima facie case of retaliation claim under Title VII requires allegations “(1) [the 5 plaintiff] was engaging in protected activity, (2) the employer subjected her to an adverse 6 employment decision, and (3) there was a causal link between the protected activity and 7 the employer’s action.” *Bergene v. Salt River Project Agr. Imp. & Power Dist.*, 272 F.3d 8 1136, 1141 (9th Cir. 2001). The requirement of establishing a prima facie case is an 9 “evidentiary standard” and not a “pleading requirement[.]” *Swierkiewicz v. Sorema N. A.*, 10 534 U.S. 506, 510 (2002). Thus, a complaint cannot be dismissed merely because it does 11 not contain facts establishing all the requirements of a prima facie case. See *Austin v. Univ. 12 of Oregon*, 925 F.3d 1133, 1137 (9th Cir. 2019). But it is helpful to consider the elements 13 of a prima facie case when assessing the plausibility of a complaint. See *Khalik v. United 14 Air Lines*, 671 F.3d 1188, 1192 (10th Cir. 2012) (holding a plaintiff is not required to 15 “establish a prima facie case in her complaint” but “the elements of each alleged cause of 16 action help to determine whether Plaintiff has set forth a plausible claim”). 17 The third amended complaint identifies the protected activity as “filing an EEOC 18 complaint.” (Doc. 32 at 2.) Although it would have been helpful for Davis to identify which 19 of her two EEOC complaints she is referencing, an EEOC filing complaining of 20 discrimination undoubtedly is protected activity meeting the first element of a retaliation 21 claim. The problems come with Davis not sufficiently identifying the adverse actions and 22 not providing any allegations supporting a link between the EEOC complaint and those 23 adverse actions. 24 The complaint alleges a wide variety of conduct that Davis seems to believe 25 qualified as adverse actions. But Davis does not provide sufficient surrounding factual 26 allegations to provide American Airlines with fair notice of the conduct at issue. For 27 example, the allegation that “[t]hreatening messages” were sent “via Teams chat” at some 28 point in 2024 does not provide adequate notice. Similarly, the allegation that Davis 1 experienced “[r]epeated verbal hostility” is too vague. These general allegations are 2 insufficient because they

leave American Airlines largely “in the dark” about the actual basis for Davis’s claims. *Whitaker v. Tesla Motors, Inc.*, 985 F.3d 1173, 1177 (9th Cir. 4 2021). 5 Beyond vague allegations of adverse actions, there are no allegations establishing a 6 causal relationship between those actions and Davis’s EEOC complaint. Davis alleges the 7 actions took place sometime after filing her EEOC complaint, but she does not identify the 8 actual length of time between the various events (or even specific enough dates to infer the 9 length). Simple temporal proximity can support a retaliation claim but “[e]ven cases 10 involving very close temporal proximity have generally featured independent evidence of 11 discrimination or retaliation.” *Kama v. Mayorkas*, 107 F.4th 1054, 1060 (9th Cir. 2024). 12 Without identifying the temporal proximity at issue, and without including any other 13 allegations indicating a retaliatory intent, Davis has not alleged a plausible causal 14 connection. 15

III. Leave to Amend 16 “The court considers five factors in assessing the propriety of leave to amend—bad 17 faith, undue delay, prejudice to the opposing party, futility of amendment, and whether the 18 plaintiff has previously amended the complaint.” *United States v. Corinthian Colleges*, 655 19 F.3d 984, 995 (9th Cir. 2011). Although there is not sufficient evidence to conclude Davis 20 has acted in bad faith, the other factors support denying leave to amend. 21 This case began approximately eight months ago and since that time Davis has filed 22 four complaints, requiring American Airlines to file three motions to dismiss. 2 After 23 American Airlines filed its first motion to dismiss, Davis did not file an opposition. (Doc. 24 27.) The court granted the motion but also provided Davis with guidance if she planned to 25 file an amended complaint. (Doc. 27 at 29 at 2-3.) Unfortunately, the third amended 26 2 Davis’s second amended complaint included more details and a single claim for retaliation. (Doc. 30 at 1.) But Davis then voluntarily amended her complaint to remove 27 the details and assert other claims. Davis “is the master of [her] complaint and responsible for articulating cognizable claims.” *Newtok Vill. v. Patrick*, 21 F.4th 608, 616 (9th Cir. 28 2021). Therefore, the court must accept that Davis intended to remove details and add claims, even though doing so may have been harmful to her case. 1 || complaint represents no meaningful improvement as it consists of vague allegations of events not tied to particular dates or individuals. For whatever reason, Davis appears 3 || incapable of providing meaningful factual allegations. 4 Overall, Davis’s approach to this litigation has caused undue delay and given the 5 || many amendments she has already made, it would be futile to give her another chance. In 6 || addition, “consideration of prejudice to the opposing party . . . carries the greatest weight” 7 || when determining whether to allow amendment. *Eminence Cap., LLC v. Aspeon, Inc.*, 316 8 || F.3d 1048, 1052 (9th Cir. 2003). It would be prejudicial to American Airlines to give Davis || endless opportunities to state a claim for relief. Leave to amend is denied.

10 IT IS ORDERED Motion to Dismiss (Doc. 34) is GRANTED. The Clerk of Court () shall enter judgment in favor of defendant and close this case. 12 IT IS FURTHER ORDERED the Motion for Leave to Amend (Doc. 39) is 13} DENIED. 14 IT IS FURTHER ORDERED the Motion to Allow Electronic Filing (Doc. 42) is () DENIED AS MOOT. 16 Dated this 17th day of February,

2026. 17 19 LAA ALAA We OC bt Honorable Krissa M. Lanham 20 United States District Judge
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