



## Thacker v. GPS Insight LLC et al

2019 | Cited 0 times | D. Arizona | September 27, 2019

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Jeremy Thacker,

Plaintiff, v. GPS Insight LLC, et al.,

Defendants.

No. CV-18-0063-PHX-DGC ORDER

On August 14, 2019, the Court issued an order denying motion for summary judgment. Doc. 151. Plaintiff has filed a motion for reconsideration, to which Defendant has responded. Docs. 153, 160. Plaintiff has also filed a motion for leave to file a reply. Doc. 161. The Court will deny both motions. I. Legal Standard.

Motions for reconsideration are disfavored and should be granted only in rare circumstances. See *Stetter v. Blackpool*, No. CV 09-1071-PHX-DGC, 2009 WL 3348522, at \*1 (D. Ariz. Oct. 15, 2009). A motion for reconsideration will be showing of manifest error or a showing of new facts or legal authority that could not have LRCiv 7.2(g)(1); see also *United Nat l Ins. Co. v. Spectrum Worldwide, Inc.*, 555 F.3d 772, 780 (9th Cir. 2009). Mere disagreement with an order is an insufficient basis for reconsideration. See *Ross v. Arpaio*, No. CV 05-4177-PHX-MHM, 2008 WL 1776502, at \*2 (D. Ariz. 2008). Nor should reconsideration be used to ask the Court to rethink its analysis. *Id.*; see *N.W. Acceptance Corp. v. Lynnwood Equip., Inc.*, 841 F.2d 918, 925-26 (9th Cir. 1988). II. Discussion.

Plaintiff contends that the Court misconstrued the evidence regarding his Title VII retaliation claim and committed manifest error in holding that Kristin Lisson did not engage in protected activity prior to his termination. Doc. 153 at 2. Plaintiff reiterates evidence presented in his original motion and provides new authority without explaining why it For this reason, the Court will deny the motion. See LRCiv 7.2(g)(1); *Salt River Project Agric. Improvement & Power Dist. v. Trench France SAS*, No. CV-17-01468-PHX-DGC, 2017 WL 6554860, at \*1 (D. reconsideration will not be granted on the basis of legal authority that could . . . diligence.



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But even considering this new authority, the result would remain the same. The Court considered and rejected opposition to Robert advances rose to the level of protected activity under Title VII. The Court reviewed the evidence cited by Plaintiff and found that it either related to matters other than Title VII harassment (allegations that Donat caused Lisson to have a panic attack or that she was threatening her professional reputation by associating with Plaintiff), or concerned complaints of harassment made after Plaintiff was terminated. Doc. 151 at 9- rejection can amount to protected activity. But each of these alleged rejections occurred in

the context of Lisson ending her romantic relationship with Donat in favor of a new not have made *Ekweani v. Ameriprise Fin., Inc.*, No. CV-08-01101-PHX-FJM, 2010 WL 481647, at \*6 (D. Ariz. Feb. 8, 2010) (citing *Cohen v. Fred Meyer, Inc.*, 686 F.2d 793, 796 (9th Cir. 1982)); see also *Quinones v. Potter*, 661 F. Supp. 2d 1105, 1126-27 (D. Ariz. 2009) (citing *Galdieri- Ambrosini v. Nat l Realty & Dev. Corp.*, 136 F.3d 276, 291-92 (2d Cir. 1998) for the protected activity is the requirement that it understood or could reasonably have .

Plaintiff next contends that the Court erred in interpreting March 2 meeting with Jason Walker and Tyler Mortenson. Plaintiff argues the Court erred

by finding at this meeting. Doc. 151 at 8. Plaintiff is correct. But even with the transcript referring to Donat as the primary culprit for the hostile workplace, the result is the same. As the Court explained in its previous order, constitute protected activity without alleging discrimination or harassment based on age, 8.

Nor will the Court reconsider its conclusion that Plaintiff did not engage in protected activity in his communications with Mortenson prior to his termination. Doc. 151 at 7-8. because his complaints to Mortenson concerned compensation or his relationship with Lisson, an invalid Title VII theory. *Id.* at 4-5, 7. Plaintiff again reiterates arguments made in his summary judgment brief, without indicating where the Court erred. See Doc. 129 at 3-4. Motions for reconsideration may not repeat arguments already made, and mere disagreement with order is insufficient grounds for reconsideration. See see also *United States v. Rezzonico*, 32 F. A motion for reconsideration should not be used to ask the court to rethink what the court had already thought through[.] .

Plaintiff also argues that because the Court participation in his termination, there must be an issue of fact relating to his Title VII claim

as well. This comparison is inapposite. Because neither Lisson nor Plaintiff engaged in protected activity, there is no Title VII claim, whether or not Donat was involved.

Finally, Plaintiff has filed a motion for leave to file a reply, arg is inappropriate. Doc. 161. 1

The Court has not relied on this evidence, and the motion for leave to file a reply will therefore be



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denied. III. Request for Additional Discovery. The Court previously ruled on various discovery issues between the parties, and stated that it would rule on the text messages between Lisson and Donat after it resolved text message dispute.

This case has a troubled discovery history. As Judge Humetewa explained, the Doc. 134 at 1-3. Judge Humetewa noted that Pl

that Plaintiff is attempting to use the rules of the MIDP to expand its intended purpose and

Id. at 3. Defendant included the texts it believed to be relevant in its MIDP disclosures, Plaintiff disagreed, but Plaintiff did not serve timely requests for production that sought additional texts. Judge Humetewa denied Id. at 6.

wrongly withheld text messages between Lisson and Donat that are relevant to this case.

does not explain why the Court should revisit it now. Because Plaintiff did not serve timely requests for production concerning the texts, Judge Humetewa resolved this issue after months of dispute, and the discovery period has long since closed, the Court will not reopen discovery now and require production of additional text messages. ///

1 This motion is improper and is accordingly denied. See LRCiv 7.2(m). IT IS ORDERED:

1. reconsideration (Doc. 153) is denied. 2. leave to file a reply (Doc. 161) is denied. 3. denied. Dated this 27th day of September, 2019.

