

## Loney v. Comm'r

United States District Court for the District of Maryland

May 5, 2009, Decided

CIVIL NO. CCB-08-969

**Reporter:** 2009 U.S. Dist. LEXIS 40840; 2009 WL 1259130

PAMELA J. LONEY v. COMMISSIONER, SOCIAL SECURITY ADMINISTRATION

**Prior History:** *Loney v. SSA*, 266 Fed. Appx. 912, 2008 U.S. App. LEXIS 554 (Fed. Cir., 2008)

### Core Terms

memorandum, defense motion, insubordinate, hostile work environment, extension of time, summary judgment, non-discriminatory, retaliate, exhaust

**Counsel:** [\*1] Pamela J. Loney, Plaintiff, Pro se, Catonsville, MD.

For Commissioner, Social Security Administration (SSA), Defendant: *Melanie L Glickson*, LEAD ATTORNEY, Maryland Office of the United States Attorney, Baltimore, MD.

**Judges:** Catherine C. Blake, United States District Judge.

**Opinion by:** Catherine C. Blake

### Opinion

#### MEMORANDUM

Now pending is the motion by defendant Michael Astrue, Commissioner of the Social Security Administration ("SSA"), to dismiss or for summary judgment in this employment discrimination case filed by Pamela J. Loney, representing herself, on November 5, 2007. <sup>1</sup> Despite requesting and receiving an extension of time until March 31, 2009 to file a response to defendant's motion, and then

a second extension of time until April 30, 2009, Ms. Loney still has not done so. Rather, on March 4, 2009 she filed a "motion of filing of voluminous exhibits" and a motion to amend the complaint. <sup>2</sup> For the reasons that follow, the defendant's motion will be granted.

As the memorandum in support of the motion reflects, Ms. Loney has a historically difficult relationship with another SSA employee, Kathi Moore, who became Ms. Loney's direct supervisor in January 2005. The record is replete with documentation of Ms. Loney's unprofessional and insubordinate responses to various requests or directions from Ms. Moore. Ms. Loney was suspended for three days in 2005 and removed from SSA service in April 2006. <sup>3</sup>

Ms. Loney's current complaint alleges various acts of discrimination, hostile work environment, and retaliation. As the SSA carefully demonstrates, most if not all of her claims either were not timely filed in this court, or were not properly exhausted at the administrative [\*3] level. To the extent her claims were exhausted, Ms. Loney has failed to establish a *prima facie* case. Most significantly, Ms. Loney's escalating pattern of insubordinate behavior both (1) indicates that she was not performing her job duties at a level that met her employer's legitimate expectations, and (2) provides a legitimate, non-discriminatory reason for any alleged "retaliation" by her supervisors. See *Laber v. Harvey*, 438 F.3d 404, 432 (4th Cir. 2006); *Williams v. Cerberonics, Inc.*, 871 F.2d 452, 456 & 459 (4th Cir. 1989) (affirming district court's entry of judgment for employer who cited employee's insubordinate behavior as its legitimate, non-discriminatory reason for her removal). Nor are the alleged actions against her sufficient to establish an objectively hostile work environment. Cf. *Gilliam v. South*

<sup>1</sup> Ms. Loney's attempt to "reopen" an earlier case (06-2197), which was dismissed without prejudice on September 27, 2006 for failure to supplement the complaint, was rejected, and the request was deemed a new complaint.

<sup>2</sup> The motion to amend appears to relate [\*2] only to some "personal identifiable information" included in one or more of the exhibits attached to the defendant's motion. There may be some information in an exhibit that should have been redacted or filed under seal.

<sup>3</sup> Her removal for "just cause," while not a subject of this case, was upheld by an arbitrator in April 2007 after an evidentiary hearing. The ruling was affirmed by the Federal Circuit. *Loney v. Social Sec. Admin.*, 266 Fed. Appx. 912, 914 (Fed. Cir. 2008) (unpublished).

*Carolina Dep't of Juvenile Justice, 474 F.3d 134, 142 (4th Cir. 2007); see E.E.O.C. v. Sunbelt Rentals, Inc., 521 F.3d 306, 315-16 (4th Cir. 2008).*

Accordingly, the defendant's motion will be granted by separate Order.

May 5, 2009

Date

/s/

Catherine C. Blake

United States District Judge

**ORDER**

For the reasons stated in the accompanying Memorandum, it is hereby **ORDERED** that:

1. defendant's [\*4] Motion to Dismiss or for Summary Judgment is **Granted**;

2. judgment is entered in favor of the defendant and against the plaintiff;

3. the Clerk shall **Close** this case; and

4. a copy of this Order and the accompanying Memorandum shall be sent to the plaintiff and counsel of record.

May 5, 2009

Date

/s/

Catherine C. Blake

United States District Judge