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STATE OF MICHIGAN

COURT OF APPEALS

BRENEE JONES,

Plaintiff-Appellant,

V

CITY OF FLAT ROCK,

Defendant-Appellee.

UNPUBLISHED
August 31, 2026
11:43 AM

No. 373683
Wayne Circuit Court
LC No. 23-005572-CD

Before: ACKERMAN, P.J., and BAZZI and LIEVENSE, JJ.

PER CURIAM.

In this employment action, plaintiff Brenee Jones appeals the trial court's order granting summary disposition to defendant, the City of Flat Rock, on her claims under the Whistleblowers' Protection Act (WPA), MCL 15.361 *et seq*., and the Civil Rights Act (CRA), MCL 37.2101 *et seq*. Finding no errors warranting reversal, we affirm.

I. BACKGROUND FACTS

Defendant operates the Flat Rock Community Center (FRCC) as part of its recreation department. The FRCC has been a controversial subject among the members of the Flat Rock City Council. According to testimony from then-mayor Mark Hammond, some members of the Council—including John Bergeron—routinely opposed measures relating to the FRCC. Before the Covid-19 pandemic began, the FRCC had a large budget deficit, which required the city to transfer $300,000 from the city's general fund to the FRCC to make up for the deficit in the fiscal year ending June 30, 2020. According to Heather Beitler, the former interim director of the recreation department, because of the FRCC's large deficit, the city council subjected the FRCC's requests for expenditures, including raises for the FRCC's staff, to greater scrutiny than requests from other city departments.

Plaintiff was hired by defendant in February 2022 as a part-time events coordinator at the FRCC. In 2022, Bergeron inquired about renting the FRCC in connection with his daughter's high school graduation. Bergeron and his wife met with plaintiff to discuss the details of the proposed event. According to plaintiff, while discussing the FRCC's decision to switch from Pepsi to Coca-Cola products, Bergeron made racist comments about Coca-Cola's employment practices.

The next day, plaintiff told Carey Hammond, the office manager of the FRCC and Mayor Hammond's wife, about the interaction. Carey, in turn, relayed the incident to her husband and Matthew Zick, Flat Rock's city attorney. Under city rules, the police were responsible for investigating noncriminal reports of possible ethics violations. The police completed an investigation of plaintiff's complaint against Bergeron, even though they were unable to formally interview Bergeron. Zick spoke with Bergeron when plaintiff's complaint was forwarded to him, and both Bergeron and Bergeron's wife categorically denied the allegations. Zick ultimately prepared a summary of the investigation for the city council, in which he recommended that no additional action be taken. At a city council meeting in August 2022, the Council unanimously approved the resolution to accept Zick's legal opinion that no further action was required.

Plaintiff alleges that after she reported Bergeron's remarks, he engaged in a crusade against her and the entire FRCC by consistently voting to block new positions and promotions at the FRCC. At a meeting in September 2022, a resolution to approve plaintiff as the full-time banquet supervisor failed by a vote of three to three, with Bergeron voting against plaintiff's promotion. Additionally, in February 2023, a resolution to approve the request of the newly hired parks and recreation director, Patrick Hawkins, to promote plaintiff to full-time banquet manager also failed by a vote of three to three. Bergeron again voted against plaintiff's promotion. Later that same month, however, at a meeting that Bergeron did not attend, the city council voted to waive the requirement that the council approve the full-time banquet manager position and allow Hawkins to fill the role as he saw fit. The day after the city council meeting, Hawkins promoted plaintiff to full-time banquet manager.

Plaintiff did not have a long tenure in her new position. Hawkins became concerned with certain financial irregularities at the FRCC. Hawkins emailed plaintiff and asked her to meet regarding the financial irregularities he discovered. Plaintiff responded that she was leaving early that day and unavailable to meet at the requested time. Plaintiff did not appear for her next scheduled shift, and Hawkins suspended her without pay until the financial issues were resolved. Instead of meeting with Hawkins at his request, plaintiff responded that she would not come in until she was paid for certain hours that she believed she was owed. Hawkins interpreted this as a resignation, and plaintiff was terminated in April 2023 for her failure to meet with Hawkins.

Shortly thereafter, plaintiff filed the instant suit against the city. As relevant to the present appeal, plaintiff alleged violations of the WPA (Count I), a hostile work environment in violation of the CRA (Count II), and retaliation in violation of the CRA (Count III). Following the close of discovery, the city moved for summary disposition of all claims under MCR 2.116(C)(8) and (C)(10). The court concluded that plaintiff could not prove causation as to Counts I and III, and that she was not a member of a protected class as to Count II,[1] and granted summary disposition under MCR 2.116(C)(10). This appeal followed.

[1] Plaintiff argues in her reply brief that the trial court dismissed all of her claims on the ground that she was not a member of a protected class. The record does not support that characterization. In addressing Counts I and III, the trial court expressly based its ruling on plaintiff's failure to present sufficient evidence of causation.

II. STANDARDS OF REVIEW

We review a trial court's decision to grant or deny summary disposition de novo. *Krieger v Dep't of Environment, Great Lakes, & Energy*, 348 Mich App 156, 170; 17 NW3d 700 (2023). In this case, the trial court decided the city's motion for summary disposition under MCR 2.116(C)(10). "A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint." *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). When reviewing a motion brought under MCR 2.116(C)(10), the trial court considers affidavits, pleadings, depositions, admissions, and documentary evidence filed or submitted by the parties in the light most favorable to the nonmoving party. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996). If the moving party meets its initial burden, "[t]he burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists." *Id*. When the nonmoving party has the burden of proof at trial, it must submit evidence that demonstrates a genuine issue of material fact exists and may not rest on mere allegations or denials in the pleadings. *Id*. "If the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the motion is properly granted." *Id*. at 363.

Additionally, "[t]he determination whether evidence establishes a prima facie case under the WPA is a question of law that this Court reviews de novo." *Hays v Lutheran Social Servs of Mich*, 300 Mich App 54, 59; 832 NW2d 433 (2013) (citation omitted). Issues of statutory interpretation are also reviewed de novo. *Reese v James*, 348 Mich App 454, 460; 19 NW3d 386 (2023).

III. PLAINTIFF'S RETALIATION CLAIMS

A. THE WPA

Plaintiff first argues that the court erred when it held that she failed to establish a prima facie case under the WPA. The WPA provides:

> An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action. [MCL 15.362.]

To establish a claim under the WPA, a plaintiff must show that "(1) the plaintiff was engaged in protected activity as defined by the act, (2) the plaintiff was discharged or discriminated against, and (3) a causal connection exists between the protected activity and the discharge or adverse employment action." *West v Gen Motors Corp*, 469 Mich 177, 183-184; 665 NW2d 468 (2003) (footnote omitted).

On appeal, the parties focus their arguments on whether plaintiff presented sufficient evidence of a causal link to meet the third required element in a prima facie WPA claim. To make

out a prima facie case as to the causation element, an employee must demonstrate that "his employer took adverse employment action *because of* his protected activity" to prove the requisite causal connection. *Whitman v Burton*, 493 Mich 303, 320; 831 NW2d 223 (2013). "[A] temporal relationship, standing alone, does not demonstrate a causal connection between the protected activity and any adverse employment action." *West*, 469 Mich at 186. Instead, a plaintiff "must show something more than merely a coincidence in time between protected activity and adverse employment action." *Id*. "Summary disposition for the defendant is appropriate when a plaintiff cannot factually demonstrate a causal link between the protected activity and the adverse employment action." *Id*. at 184.

A plaintiff may rely on direct or indirect evidence to establish causation under the WPA. *Debano-Griffin v Lake Co*, 493 Mich 167, 176; 828 NW2d 634 (2013). "Direct evidence" is evidence which, if believed, requires the conclusion that the plaintiff's protected activity was at least a motivating factor in the employer's actions. See *Hazle v Ford Motor Co*, 464 Mich 456, 462; 628 NW2d 515 (2001). "Absent direct evidence of retaliation, a plaintiff must rely on indirect evidence of his or her employer's unlawful motivations to show that a causal link exists between the whistleblowing act and the employer's adverse employment action." *Debano-Griffin*, 493 Mich at 176. To establish causation using circumstantial evidence, "the circumstantial proof must facilitate reasonable inferences of causation, not mere speculation." *Shaw v Ecorse*, 283 Mich App 1, 15; 770 NW2d 31 (2009) (cleaned up). Speculation in this context is an explanation that is consistent with the evidence but is not deducible as a reasonable inference. *Id*. "In other words, the evidence presented will be sufficient to create a triable issue of fact if the jury could reasonably infer from the evidence that the employer's actions were motivated by retaliation." *Id*.

If the plaintiff makes a prima facie case, "there is a presumption of retaliation, and the employer may rebut this presumption by offering a legitimate reason for its action." *Green v Pontiac Pub Library*, 350 Mich App 478, 494; 32 NW3d 487 (2024). If the defendant produces such a legitimate reason, summary disposition in the defendant's favor is not warranted when a reasonable fact-finder could conclude that the reason offered by the defendant is a pretext for an unlawful adverse employment action. *Id*. A plaintiff may demonstrate that a defendant's articulated reason is pretextual in three ways: "(1) by showing the reasons had no basis in fact, (2) if they have a basis in fact, by showing that they were not the actual factors motivating the decision, or (3) if they were factors, by showing that they were jointly insufficient to justify the decision." *Debano-Griffin*, 493 Mich at 180 (citation omitted). "[D]isproof of an employer's articulated reason for an adverse employment decision defeats summary disposition only if such disproof also raises a triable issue that discriminatory animus was a motivating factor underlying the employer's adverse action." *Lytle v Malady*, 458 Mich 153, 175; 579 NW2d 906 (1998). "[I]n the context of summary disposition, a plaintiff must prove discrimination with admissible evidence . . . sufficient to permit a reasonable trier of fact to conclude that discrimination was a motivating factor for the adverse action taken by the employer toward the plaintiff." *Id*.

Plaintiff argues that the trial court erred in dismissing her WPA claim because she presented sufficient evidence to establish a genuine issue of material fact regarding the causal connection between her protected activity and two distinct adverse employment events: (1) Bergeron's votes against plaintiff's promotions and against FRCC staffing and funding requests, and (2) plaintiff's termination. As to plaintiff's first claimed adverse employment event, Bergeron's votes against her promotion and other FRCC funding proposals, the trial court correctly

determined that plaintiff failed to establish a causal connection. Plaintiff relies primarily on the temporal proximity between her report and Bergeron's votes from May 2022 to February 2023. As the Supreme Court has made clear, however, plaintiff "must show something more than merely a coincidence in time between protected activity and adverse employment action." *West*, 469 Mich at 186.

Furthermore, even if the timing of Bergeron's votes were considered sufficient to make out a prima facie case for plaintiff, she failed to present evidence from which a jury could reasonably infer that unlawful retaliation was at least a motivating factor in the city council's votes.[2] See *Shaw*, 283 Mich App at 15. Plaintiff primarily relies on Bergeron's votes against the FRCC's funding requests from May 2022 to February 2023 as evidence of retaliatory motive. But, as the city points out, these votes must be evaluated within the context of the FRCC's financial troubles that began long before plaintiff was hired. In 2020, the FRCC had a deficit of approximately $280,000, and the city council and mayor worked together on a deficit elimination plan to achieve a balanced budget. The FRCC deficit ultimately required the city council to transfer hundreds of thousands of dollars from the general fund to the FRCC. Because of this large deficit, the FRCC's funding and staffing requests were closely scrutinized by the city council. Indeed, Bergeron voted against FRCC wage increases two months *before* plaintiff was hired. In light of this history, plaintiff has not established that there was a causal link between Bergeron's votes against the FRCC's funding requests and plaintiff's protected activity. Plaintiff's explanation for Bergeron's votes—that the votes were retaliation for her protected activity—is mere speculation. A reasonable jury would not look at the evidence and deduce that Bergeron's voting history was influenced by plaintiff's report because his skepticism of the FRCC's funding requests predated plaintiff's employment. Consequently, plaintiff's evidence was insufficient to create a triable issue of fact for a jury, and summary disposition was warranted. *Shaw*, 283 Mich App at 15; *Lytle*, 458 Mich at 175.

Additionally, the two city council votes highlighted by plaintiff that directly impacted her employment were (1) the September 2022 resolution to approve plaintiff as the full-time banquet supervisor, which failed after three councilmen (including Bergeron) voted against the resolution, and (2) the February 2023 resolution to approve Hawkins's request to promote plaintiff to full-time banquet manager, which again failed after three councilmen voted against the resolution. Both of these resolutions failed by a vote of three in favor and three opposed. Even if plaintiff *had* presented sufficient evidence to establish a material issue of fact as to whether Bergeron's votes were the product of an unlawful retaliatory purpose, she has not presented *any* evidence that the other individual councilmen's votes were the result of improper motive. On his own, Bergeron lacked the authority to deny plaintiff the promotion to the position of full-time banquet manager. Plaintiff has not presented any evidence that the other councilmen who cast the deciding votes at the September 2022 and February 2023 meetings were in any way influenced by Bergeron's alleged campaign of unlawful retaliation against plaintiff. Consequently, plaintiff is unable to

[2] The existing controversy over the FRCC is, clearly, an eligible legitimate and nondiscriminatory reason for defendant's action of not promoting plaintiff, so we proceed to analyzing whether plaintiff can show it was pretextual. We are bound by caselaw establishing this burden-shifting analysis.

establish a causal link between her protected activity and the adverse employment actions, i.e., her failed promotions. *West*, 469 Mich at 186.

Finally, plaintiff has not demonstrated that her termination was causally linked to her protected activity. She argues that Hawkins was beholden to Bergeron because "Bergeron, as a council member, obviously exercised a power that affected Hawkins' ability to perform his role." Plaintiff's argument ignores two fundamental problems. First, as a department head, Hawkins reported to the entire city council and the mayor, and there were five other members of the city council who plaintiff has not alleged were motivated by an improper purpose. Second, plaintiff has not provided any evidence that Bergeron had any input into the decision to terminate plaintiff, nor did she provide any evidence that Bergeron was even aware of the decision before it was made. Indeed, the evidence in the record points in the other direction: the City Council had already removed itself from supervising plaintiff's employment status by empowering Hawkins to fill the banquet manager position, and then Hawkins acted on that *by hiring plaintiff for the role*. Plaintiff has not provided any evidence that Hawkins was influenced by Bergeron's alleged campaign of retaliation, and in fact the record indicates that Hawkins was unmoved by such concerns. Moreover, it would make little sense for Hawkins to promote plaintiff if he was motivated to retaliate against her for her report against Bergeron. The trial court correctly determined that Hawkins's involvement was a superseding cause that broke any causal link between plaintiff's termination and her complaint a year earlier. In the end, plaintiff fails to demonstrate that the trial court erred when it concluded that she did not establish a prima facie case under the WPA.

B. THE CIVIL RIGHTS ACT

Next, plaintiff challenges the trial court's decision to dismiss her retaliation claim under the Civil Rights Act. The antiretaliation provision of the Civil Rights Act provides, in pertinent part, that

> [t]wo or more persons shall not conspire to, or a person shall not . . . [r]etaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act. [MCL 37.2701(a).]

To establish a prima facie claim of unlawful retaliation under the Civil Rights Act, a plaintiff must show "(1) that he engaged in a protected activity; (2) that this was known by the defendant; (3) that the defendant took an employment action adverse to the plaintiff; and (4) that there was a causal connection between the protected activity and the adverse employment action." *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 161; 934 NW2d 665 (2019) (cleaned up).

Similar to a WPA claim, a plaintiff alleging retaliation under the Civil Rights Act must demonstrate a causal connection between the protected activity and the adverse employment action. *Id*. at 162. "To establish causation, the plaintiff must show that his participation in activity protected by the [Civil Rights Act] was a 'significant factor' in the employer's adverse employment action, not just that there was a causal link between the two." *Barrett v Kirtland Community College*, 245 Mich App 306, 315; 628 NW2d 63 (2001), overruled in part on other grounds by *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006). "A causal

connection can be established through circumstantial evidence, such as close temporal proximity between the protected activity and adverse actions, as long as the evidence would enable a reasonable fact-finder to infer that an action had a discriminatory or retaliatory basis." *Rymal v Baergen*, 262 Mich App 274, 303; 686 NW2d 241 (2004).

The trial court concluded that plaintiff did not present sufficient evidence of a causal link between her report of Bergeron's racist comment and any adverse employment actions for all the same reasons discussed in its analysis regarding her WPA claim. We agree that plaintiff's evidence of causation is lacking, and so her claim for retaliation under the Civil Rights Act was properly dismissed for the same reasons as her WPA claim.[3] Consequently, because plaintiff has failed to establish causation, a required element for a prima facie claim of retaliation under the Civil Rights Act, she has not demonstrated that the trial court erred in dismissing her claim.

IV. PLAINTIFF'S HOSTILE WORK ENVIRONMENT CLAIM

Finally, plaintiff argues that the trial court erred when it dismissed her hostile work environment claim under the Civil Rights Act. To establish a hostile work environment claim under the Civil Rights Act, a plaintiff must show:

> (1) the employee belonged to a protected group; (2) the employee was subjected to communication or conduct on the basis of the protected status; (3) the employee was subjected to unwelcome conduct or communication on the basis of the protected status; (4) the unwelcome conduct or communication was intended to, or in fact did, interfere substantially with the employee's employment or created an intimidating, hostile, or offensive work environment; and (5) respondeat superior. [*Major v Village of Newberry*, 316 Mich App 527, 550; 892 NW2d 402 (2016) (cleaned up).]

The first element of a hostile-work-environment claim requires a plaintiff to demonstrate that he or she is a "member of a class entitled to protection under the statute." *Radtke v Everett*, 442 Mich 368, 383; 501 NW2d 155 (1993) (cleaned up). "Harassment based on any of the enumerated classifications in MCL 37.2202(1)(a) is an actionable offense." *Major*, 316 Mich App at 549. An employer may not discriminate against an individual based on "religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, height, weight, or marital status." MCL 37.2202(1)(a).

At issue in the present case is whether plaintiff has demonstrated that she is a member of a protected group under the Civil Rights Act such that she can maintain a hostile work environment claim. *Major*, 316 Mich App at 550. Plaintiff argues that her hostile work environment claim is based on her protected status as a person who has engaged in a protected activity, not on any particular characteristic such as race or gender. Plaintiff has not cited any legal authority, however, for the proposition that a person who engages in a protected activity is a member of a protected

[3] Defendant also specifically challenges whether plaintiff was engaged in protected activity under the Civil Rights Act. However, because we have concluded that plaintiff's retaliation claim was unviable, we decline to address this contention on appeal.

class for a hostile work environment claim. "It is not sufficient for a party simply to announce a position or assert an error and then leave it [up] to . . . this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position." *Oakland Co v Michigan*, 325 Mich App 247, 266-267; 926 NW2d 11 (2018) (citation omitted). By failing to brief the merits of the issue, plaintiff has abandoned it on appeal. See *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999) ("And, where a party fails to cite any supporting legal authority for its position, the issue is deemed abandoned."). Because plaintiff has abandoned this claim on appeal by failing to support it, we will not address the issue.

Affirmed.

/s/ Matthew S. Ackerman
/s/ Mariam S. Bazzi