

Winfrey v City of New York

2025 NY Slip Op 34040(U)

October 17, 2025

Supreme Court, New York County

Docket Number: Index No. 160719/2024

Judge: Hasa A. Kingo

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. HASA A. KINGO PART 05M

Justice

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CHANEL WINFREY,

Plaintiff,

- v -

THE CITY OF NEW YORK, NEW YORK CITY
DEPARTMENT OF CORRECTION

Defendant.

-----X

INDEX NO. 160719/2024

MOTION DATE 06/20/2025

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 21, 22, 23, 24, 25, 26, 27, 32, 33, 34

were read on this motion to/for RENEW/REARGUE/RESETTLE/RECONSIDER .

Upon the foregoing documents, plaintiff Chanel Winfrey (“Plaintiff”) moves pursuant to CPLR § 2221 to renew and reargue this court’s decision dated May 20, 2025. Defendant the City of New York (“City”) opposes on behalf of itself and defendant the New York City Department of Corrections (“DOC”). For the reasons set forth herein, the motion is denied.

BACKGROUND

Plaintiff commenced this action after her employment as a corrections officer with the DOC was terminated following an administrative hearing before the Office of Administrative Trials and Hearings (“OATH”). Plaintiff and three other corrections officers were accused of consuming alcohol while on duty at the Manhattan Detention Complex. Plaintiff submitted to a breathalyzer test four hours after the alleged incident, which returned negative results. On March 4, 2022, after a five-day trial before the Office of Administrative Trials and Hearings (“OATH”), an Administrative Law Judge issued a Report and Recommendation that found Plaintiff had possessed and consumed alcohol and made a false statement during her MEO 16 interview (NYSCEF Doc No. 24, report and recommendation at 24). Although the Administrative Law Judge recommended a 50-day suspension, the DOC Commissioner rejected the recommendation and terminated Plaintiff’s employment.

On November 15, 2024, Plaintiff commenced this action by filing a summons and complaint that interposes causes of action for discriminatory treatment on the basis of race under the New York State Human Rights Law (“NYSHRL”), and the New York City Human Rights Law (“NYCHRL”), and the New York State Constitution (NYSCEF Doc No. 2, complaint). On March 6, 2025, the City moved to dismiss the action for failure to state a cause of action (NYSCEF Doc No. 4, notice of motion). This court granted the motion and dismissed the complaint in its

entirety by decision and order dated May 20, 2025, holding that the complaint fails to state a cause of action for discrimination because the complaint does not plead specific facts suggesting that race or gender served as a motivating factor in the adverse employment decision, this action is time-barred because an action to challenge administrative determinations must be brought within four-months of the final determination, and the DOC is a non-suable entity (NYSCEF Doc No. 19, decision and order).

Plaintiff now moves pursuant to CPLR § 2221 to renew or reargue the May 20, 2025 decision. In support of the motion, Plaintiff argues that the action can proceed because Plaintiff exhausted all available administrative remedies before commencing this action and that a lack of evidence that Plaintiff engaged in wrongdoing gives rise to an inference of discrimination. Plaintiff contends that this court applied a more stringent pleading standard than the notice pleading required for discrimination claims (NYSCEF Doc No. 27, memo in support at 7). The City opposes the motion and argues that it should be denied as procedurally defective because Plaintiff does not present any facts or law that the court overlooked or raise any new facts or law. The City further contends that exhaustion of administrative remedies has no bearing on the statute of limitations. Plaintiff reiterates her arguments on reply.

DISCUSSION

A party may move to renew or reargue the outcome of a prior motion before the court pursuant to CPLR § 2221. A motion to renew shall be identified specifically as such, and “shall be based upon new facts not offered on the prior motion that would change the prior determination or shall demonstrate that there has been a change in the law that would change the prior determination,” and “shall contain reasonable justification for the failure to present such facts on the prior motion” (CPLR § 2221 [e]). The CPLR does not set forth a time limitation for a motion to renew, but courts have generally held that a motion based upon new facts or new law not known at the time of the original motion may be made until the time to appeal expires (*see Luna v Port Auth. of NY and N.J.*, 21 AD3d 324, 326 [1st Dept 2005]; *Ramos v City of New York*, 61 AD3d 51 [1st Dept 2009]; *Swope v Quadra Realty Tr., Inc.*, 28 Misc 3d 1209 [A], *2 [Sup Ct 2010]).

A motion for leave to reargue must be identified specifically as such and made within 30 days after service of a copy of the order with notice of entry, and “shall be based upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the prior motion, but shall not include any matters of fact not offered on the prior motion” (CPLR § 2221 [d]). “Reargument is not designed to afford the unsuccessful party successive opportunities to reargue issues previously decided or to present arguments different from those originally asserted” (*William P. Pahl Equip. Corp. v Kassiss*, 182 AD2d 22, 27 [1st Dept 1992] [internal citations omitted]). A motion for leave to reargue is addressed to the sound discretion of the court (*id.*).

Plaintiff’s motion, which is designated as a motion to renew or reargue, fails to satisfy the burden under either standard. Considering renewal, the only new fact Plaintiff presents is an assertion that Plaintiff exhausted her administrative remedies prior to bringing this action by filing a Civil Service Appeal (NYSCEF Doc No. 27, memo in support at 7). Plaintiff argues that this purported exhaustion of remedies estopped her from pursuing Article 78 relief (*id.*). Nevertheless, this court’s prior determination was not premised on whether Plaintiff had exhausted her

administrative remedies. Rather, the court held that the nature of relief sought, reinstatement of Plaintiff's employment, must be pursued in an Article 78 proceeding, which is time-barred (*see Walton v New York State Dept of Corr. Servs.*, 8 NY3d 186, 195 [2007] ["Those who wish to challenge agency determinations under article 78 may not do so until they have exhausted their administrative remedies, but once this point has been reached, they must act quickly—within four months—or their claims will be time-barred."]). Therefore, the new facts, if offered on the prior motion, would not have changed the prior determination.

With respect to reargument, Plaintiff fails to raise any matters of fact or law that the court overlooked or misapprehended in determining the prior motion. Plaintiff incorrectly asserts that the court applied a more stringent standard than the notice pleading standard required for employment discrimination claims (NYSCEF Doc No. 27, memo in support at 7). As noted in the court's May 20, 2025 decision, although employment discrimination claims are afforded a liberal construction, the complaint must nonetheless allege facts suggesting that discrimination played at least some role in the adverse action (NYSCEF Doc No. 19, decision and order at 3). To state a cause of action for employment discrimination, a plaintiff must allege that (1) they are a member of a protected class, (2) they were qualified for the position, (3) they were subjected to an adverse employment action or were treated differently or worse than other employees, and (4) the adverse or different treatment occurred under circumstances giving rise to an inference of discrimination (*Spiegel v 226 Realty LLC*, 231 AD3d 562, 565 [1st Dept 2024]; *Harrington v City of New York*, 157 AD3d 582, 584 [1st Dept 2018]). Plaintiff pleads that she is a member of a protected class and she was terminated, but does not plead any facts that give rise to an inference of discrimination, i.e., facts that would suggest a connection between her status as a member of a protected class and the adverse action.

On this motion, Plaintiff argues that "the absence of any credible evidence of wrongdoing," gives rise to an inference of discrimination. However, the assertion that her employment was terminated "in the absence of any credible evidence of wrongdoing" is contradicted by the OATH Report and Recommendation, which meticulously recounts the evidence presented at trial, including video of the alleged incident and witness testimony, and the MEO 16 interviews of each of the officers involved in the alcohol incident (NYSCEF Doc No. 9, report and recommendation at 3-13).¹ Upon review and analysis of the evidence presented, the Administrative Law Judge concluded that Plaintiff drank alcohol while on post, tampered with or concealed evidence on June 14, 2019, and made inaccurate or misleading statements during her MEO 16 interview. This court must give "great weight and judicial deference" to the expertise of the OATH determinations (*Testwell, Inc. v New York City Dept of Bldgs.*, 80 AD3d 266, 276 [1st Dept 2010]). As noted in the court's May 20, 2025 decision, Plaintiff does not allege that similarly situated non-Black or male officers escaped comparable discipline or were treated differently for comparable behavior, and the documentary record of the OATH proceeding reflects a neutral application of the DOC's standards across all officers implicated in the alcohol incident (NYSCEF Doc No. 19, decision and order at 3). Whereas Plaintiff's complaint fails to plead all elements of a cause of action for employment discrimination, the complaint was appropriately dismissed.

¹ The Report and Recommendation notes that, although Winfrey's MEO 16 interview was not recorded due to an equipment malfunction, there was no dispute that she told investigators that she had not consumed alcohol (NYSCEF Doc No. 9, report and recommendation at 13).

Accordingly, it is hereby

ORDERED that the motion to renew and reargue is denied in its entirety.

This constitutes the order and decision of the court.

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HASA A. KINGO, J.S.C.

10/17/2025

DATE

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE