

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
10OSP07753

Ricky Lynn Mason Petitioner vs North Carolina
Correctional Institution for
Women Respondent

**DECISION GRANTING SUMMARY
JUDGMENT FOR RESPONDENT**

THIS MATTER is before the undersigned on Respondent's Motion for Summary Judgment.

The Petition in this case was filed on November 19, 2010. Because he had previously filed a claim with the Equal Opportunity Employment Commission with the same complaint, an Order was entered on April 25, 2011 staying adjudication of the Petition in the Office of Administrative Hearings ("OAH") pursuant to N.C. Gen. Stat. §150B-33(a) and was extended by a federal suit encompassing the same subject matter, styled Ricky L. Mason and Marcus Globus Schulz v. N.C. Dept. of Corrections, No. 5:12-CV-00382-BO (EDNC).

The federal suit was concluded with an unappealed Order granting Respondent's Motions for summary judgment and to dismiss, entered by the Hon. Terrance W. Boyle, U.S. District Judge, on August 7, 2014. Upon notice of this Order, received with Respondent's Motion for Summary Judgment based on Judge Boyle's disposition, the undersigned dissolved the stay and allowed Petitioner until September 22, 2014 to respond to Respondent's Motion. Petitioner's response, filed *pro se*, has now been received.

Respondent argues in its Motion that under the doctrine of collateral estoppel, Petitioner should not be allowed to "relitigate previously decided matters" at OAH following the "factual and legal findings ... relevant and applicable to this matter" by Judge Boyle.

Petitioner filed a Petition on November 19, 2010 alleging discrimination in consideration for promotion on account of race, color, and sex. In the statement of facts, he indicated that he had been passed over for a promotion to Correctional Lieutenant (from his current job as Correctional Sergeant) over the past three years. The Petition was filed within 30 days the determination on October 25, 2010 by the Equal Employment Opportunity Office of the N.C. Department of Correction finding "no reasonable grounds to substantiate [Petitioner's] allegations." Petitioner's federal claim was amended twice and narrowed on jurisdictional grounds to complaints about applications "for promotion to the rank of Lieutenant" that were

found to be “within the scope” of a claim filed on August 24, 2010 with the U.S. Equal Opportunity Employment Commission. Consequently, it appears that the subjects of the Petition and Judge Boyle’s Order are factually the same. (See Order, pp. 3-5)

After a discussion of the appropriate standard for evaluating Petitioner’s claim, the Order specifically states that “the Court will apply the standard *McDonnell Douglas* test here.” In *N.C. Dep’t of Corr. v. Gibson*, 308 N.C. 131, 141, 301 S.E.2d 78, 85 (1983), the North Carolina Supreme Court adopted the framework established for evaluating federal employment discrimination claims in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973) and that criteria has been consistently utilized in OAH discrimination cases since.

The doctrine of collateral estoppel “protect[s] litigants from the burden of re-litigating previously decided matters” and “promot[es] judicial economy by preventing needless litigation.” *Thomas M. McInnis & Assocs. v. Hall*, 318 N.C. 421, 427, 349 S.E.2d 552, 556 (1986). The doctrine applies when the following requirements are met:

(1) The issues to be concluded must be the same as those involved in the prior action; (2) in the prior action, the issues must have been raised and actually litigated; (3) the issues must have been material and relevant to the disposition of the prior action; and (4) the determination made of those issues in the prior action must have been necessary and essential to the resulting judgment.

Beckwith v. Llewellyn, 326 N.C. 569, 574, 391 S.E.2d 189, 191 (1990) (quoting *King v. Grindstaff*, 284 N.C. 348, 358, 200 S.E.2d 799, 806 (1973)). Rulings on summary judgment may be given preclusive effect, *Green v. Dixon*, 137 N.C. App. 305, 310, 528 S.E.2d 51, 55, *aff’d per curiam*, 352 N.C. 666, 535 S.E.2d 356 (2000). This doctrine applies to administrative decisions just as in other cases. *Rymer v. Estate of Sorrells*, 127 N.C. App. 266, 268, 488 S.E.2d 838, 840 (1997). The circumstances of this case meet each of the prerequisites for the application of collateral estoppel.

Consequently, Respondent’s Motion for Summary Judgment is GRANTED, and the Petition must be, and hereby is, DISMISSED.

NOTICE

The decision of the Administrative Law Judge in this contested case will be reviewed by the agency making the final decision according to the standards found in G.S. 150B-36(b), (b1) and (b2). The agency making the final decision is required to give each party an opportunity to file exceptions to the decision of the Administrative Law Judge and to present written arguments to those in the agency who will make the final decision. The Agency is required to serve a copy of the final decision on all parties and to furnish a copy to the parties’ attorneys of record and to the Office of Administrative Hearings. The agency that will make the final decision in this contested case is the North Carolina Department of Public Safety.

This the 9th day of October, 2014.

J. Randolph Ward
Administrative Law Judge