

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DIANA E. DAY

v.

STATE OF MARYLAND DEPARTMENT *
OF GENERAL SERVICES *

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* Civil No. JFM-08-3100
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MEMORANDUM

Plaintiff has instituted this pro se action for employment discrimination against her former employer, the Maryland State Department of General Services. Defendant has filed a motion to dismiss or for summary judgment. Plaintiff has responded to the motion. Defendant's motion will be treated as one to dismiss and, as such, will be granted.¹

No useful purpose would be served by stating the facts. The case claims are not cognizable because of certain well established legal principles, all of which may be briefly stated.

First, the extent that plaintiff is asserting a claim under the Title I of the Americans With Disabilities Act, the claim is not cognizable because defendant is a state agency and the Supreme Court has specifically held that state governments and their agencies are immune from suits under Title I of the ADA. *Board of Trustees v. Garrett*, 531 U.S. 356 (2001). Moreover, plaintiff has alleged no facts demonstrating that she suffers from a disability within the meaning of the ADA or that she is a "qualified individual with a disability" within the meaning of the Act.

Second, plaintiff's claim for retaliation fails on the ground that she voluntarily resigned

¹This court previously granted defendant's motion when plaintiff failed to respond to it. However, subsequently the court granted a motion for reconsideration filed by plaintiff when she contended that she had changed her address and not received defendant's motion.

from employment before she filed her charge with the EEOC.

Third, plaintiff has alleged no facts suggesting that she was subjected to a hostile work environment because of her race, color, or disability.

Fourth, plaintiff has not made out a prima facie case for employment discrimination under Title VII because, as indicated above, she voluntarily resigned from employment and thus did not suffer an adverse employment action. Moreover, plaintiff has alleged no facts to suggest that she was treated inappropriately or in any way different from any similarly situated employee outside her protected class.

A separate order effecting the ruling made in this memorandum is being entered herewith.

Date: June 30, 2009

/s/ _____
J. Frederick Motz
United States District Judge

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ORDER

For the reasons stated in the accompanying memorandum, it is, this 30th day of June
2009

ORDERED

1. Defendant's motion to dismiss or for summary judgment is treated as one to dismiss,
and, as such, is granted; and
2. This action is dismissed.

/s/
J. Frederick Motz
United States District Judge