United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
November 3, 2026
Thomas B. Plunkett, III
Clerk

No. 26-50016

ANGELICA OLIVAS,

Plaintiff—Appellant,

versus

CITY OF MIDLAND,

Defendant—Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:25-CV-81

Before WILLETT, OLDHAM, and WILSON, *Circuit Judges*.

PER CURIAM:[*]

Angelica Olivas sued the City of Midland for retaliation under the Americans with Disabilities Act (ADA). Olivas alleged that the City fired her for requesting reasonable medical accommodations. The City moved to dismiss Olivas's retaliation claim. The magistrate judge recommended granting the City's motion because Olivas did not include sufficient factual allegations in her Charge of Discrimination (the Charge) to administratively

[*] This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

exhaust her retaliation claim. After Olivas failed to object to this recommendation, the district court adopted it and dismissed Olivas's complaint. Because the district court's exhaustion finding was not plainly erroneous, we affirm.

I.

The following facts are drawn from the allegations in Olivas's complaint. In May 2013, the City hired Olivas as a Laboratory Technician. The City later promoted her to Laboratory Manager. During her tenure in that role, she was diagnosed with Hashimoto's disease and an unspecified mental health issue. "But, with reasonable accommodation," Olivas would have allegedly been able to perform her work duties. On August 18, 2023, following complaints from Olivas's coworkers that "she 'was hardly' at work for an eight month period," the City "placed Plaintiff on administrative leave[.]" This occurred sometime "after she requested accommodations for her physical, mental and medical conditions."[1] Four days later, the City terminated Olivas. Although the City terminated her for "excessive absences," Olivas alleges "[t]his ground was a pretext to hide unlawful discrimination based on disability and based on [the City's] refusal to provide reasonable accommodation."

Olivas contested her termination by filing her Charge with the Equal Employment Opportunity Commission (EEOC). In the Charge, Olivas alleged that, "[o]n or about August 18, 2023, [she] was placed on administrative leave after complaining of employment discrimination due to [her] disability and gender." She further alleged that "[o]n or about August

[1] Olivas does not allege the date on which she requested accommodations. The amount of time between her request for accommodations and the City's decision to place her on administrative leave is thus indeterminate.

22, 2023, [she] was terminated in retaliation because [she] complained of discrimination." The EEOC ultimately issued Olivas a right-to-sue letter.

In February 2025, Olivas filed this lawsuit, asserting three claims against the City: (1) hostile work environment under the ADA; (2) retaliation under the ADA; and (3) wrongful termination under 42 U.S.C. § 1983. In an order that Olivas does not challenge on appeal, the district court dismissed Olivas's first and third claims pursuant to Federal Rule of Civil Procedure 12(b)(6). *Olivas v. City of Midland* (*Olivas I*), No. 25-CV-81, 2025 WL 2318943 (W.D. Tex. July 24, 2025), *R. & R. adopted*, 2025 WL 2312317 (W.D. Tex. Aug. 11, 2025).

The City then filed a Rule 12(b)(6) motion to dismiss Olivas's ADA retaliation claim. The magistrate judge[2] recommended granting the motion and dismissing Olivas's retaliation claim with prejudice. Neither party objected. The district judge adopted the report and recommendation and dismissed Olivas's retaliation claim, with prejudice.[3] *Olivas v. City of Midland* (*Olivas II*), No. 25-CV-81, 2025 WL 3237085 (W.D. Tex. Nov. 3, 2025), *R. & R. adopted*, 2025 WL 3233038 (W.D. Tex. Nov. 18, 2025).

Olivas now appeals the dismissal of her ADA retaliation claim.

---

[2] Pursuant to a standing order, the motion was automatically referred to the magistrate judge.

[3] The district court dismissed the retaliation claim with prejudice because, based on her date of termination, Olivas was time-barred from returning to the EEOC to exhaust the claim. Olivas does not contest this point on appeal. The district court also found that, even if Olivas had exhausted her claim, she failed properly to plead an ADA retaliation claim. However, we do not address this argument because we affirm based on Olivas's failure to exhaust.

II.

"When a party who is warned of the requirement to file timely objections to a magistrate judge's report and recommendation fails to file any such objections, and the magistrate judge's factual findings and legal conclusions are accepted by the district court, our review is for plain error." *Alexander v. Verizon Wireless Servs., L.L.C.*, 875 F.3d 243, 248 (5th Cir. 2017) (citing *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc), *superseded on other grounds by* 28 U.S.C. § 636(b)(1)). To demonstrate plain error, Olivas "must show (1) an error that has not been affirmatively waived, (2) that is clear or obvious, and (3) that affects [her] substantial rights. Plain error is a stringent and difficult standard." *Hickson v. St. David's Healthcare P'ship*, 168 F.4th 282, 291 (5th Cir. 2026) (internal citations and quotations omitted).

Because the district court held that Olivas failed to exhaust her ADA retaliation claim, *Olivas II*, 2025 WL 3237085, at *5, we begin our plain error analysis with the basics on exhaustion. "Before a plaintiff may file suit in federal court under . . . the ADA, the plaintiff must first exhaust her administrative remedies by filing a charge of discrimination with the EEOC." *Jennings v. Towers Watson*, 11 F.4th 335, 342 (5th Cir. 2021) (internal citations omitted). "In determining whether a plaintiff has exhausted a particular claim, 'the scope of an EEOC complaint should be construed liberally.'" *Id.* (quoting *Patton v. Jacobs Eng'g Grp., Inc.*, 874 F.3d 437, 443 (5th Cir. 2017)). We assess the inquiry "somewhat broadly, not solely by the scope of the administrative charge itself, but by the scope of the EEOC investigation which can reasonably be expected to grow out of the charge of discrimination.'" *Melgar v. T.B. Butler Publ'g Co., Inc.*, 931 F.3d 375 (5th Cir. 2019) (quoting *Pacheco v. Mineta*, 448 F.3d 783, 789 (5th Cir. 2006)); *see Dao v. Auchan Hypermarket*, 96 F.3d 787, 789 (5th Cir. 1996) (recognizing that the ADA incorporates Title VII's administrative

procedures). And "[w]e engage in fact-intensive analysis of the statement given by the plaintiff in the administrative charge, and look slightly beyond its four corners, to its substance rather than its label." *Jennings*, 11 F.4th at 342 (quotation omitted).

In this case, the district court began its exhaustion analysis by defining the scope of Olivas's ADA retaliation claim. To prevail, Olivas would have to prove "three elements: '(1) engagement in an activity protected by the ADA, (2) an adverse employment action, and (3) a causal connection between the protected act and the adverse action.'" *Strife v. Aldine Indep. Sch. Dist.*, 138 F.4th 237, 249 (5th Cir. 2025) (quoting *Seaman v. CSPH, Inc.*, 179 F.3d 297, 301 (5th Cir. 1999)). After reviewing Olivas's complaint allegations, the district court determined that her "retaliation claim is based only on her being terminated after she requested reasonable accommodations." *Olivas II*, 2025 WL 3237085, at *4. Comparing Olivas's EEOC Charge, the district court reasoned that Olivas did not exhaust her ADA retaliation claim because the Charge "generally states she was terminated in retaliation" for "complain[ing] of discrimination but makes no distinction as to whether the discrimination was based on her disability or gender." *Id.* at *5. The district court highlighted that Olivas's Charge did "not . . . provide any facts to infer that she was terminated after requesting reasonable accommodations due to her disability." *Id.*

On appeal, Olivas first contends that the district court plainly erred because "not making reasonable accommodations" is included within the ADA's definition of "discrimination." 42 U.S.C. § 12112(b)(5)(A) ("[T]he term 'discriminate against a qualified individual on the basis of disability' includes . . . not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual . . . ."). Olivas posits that her use of the word "discrimination" in her EEOC Charge implicitly included the allegation that the City failed to accommodate her

disabilities. Olivas does not cite any case law supporting this argument. Even accepting her statutory reading, though, the district court did not plainly err in its holding because, in the Charge, Olivas "alleged no specific facts for the EEOC or a court to analyze." *Jones v. City of Dallas, Texas*, No. 24-10803, 2025 WL 2491127, at *7 (5th Cir. Aug. 29, 2025). Indeed, Olivas's EEOC Charge lacks particularized factual allegations, omits the word "accommodation," and fails to specify whether her complaint of disability discrimination or her complaint of gender discrimination caused the alleged retaliatory discharge.

Second, Olivas asserts that the district court's exhaustion analysis runs afoul of binding precedent. Yet, Olivas has not cited any case law on all fours with her case demanding a result contrary to the one reached by the district court.

Considering Olivas's vague and ambiguous EEOC Charge, her failure to allege any request for, or denial of, accommodation therein, and her inability to direct this court to any legal authority requiring an outcome different from the one reached by the district court, that court did not plainly err in holding that Olivas failed to exhaust an ADA retaliation claim based on her termination for requesting a reasonable accommodation.

AFFIRMED.