

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT’S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION “SUMMARY ORDER”). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 6th day of October, two thousand twenty-six.

PRESENT: DENNIS JACOBS,
SARAH A. L. MERRIAM,
MATTHEW A. SCHWARTZ,
Circuit Judges.

ZINNAT RAHMAN,

Plaintiff-Appellant,

v.

25-2876-cv

MARTHA CARLIN, DAVID CLOSE, DANIEL
RAGONE, and GERALD DECUSATIS,

Defendants-Appellees,

STATE OF NEW YORK and NEW YORK STATE
OFFICE OF MENTAL HEALTH,

Defendants.

FOR PLAINTIFF-APPELLANT: NATHANIEL B. SMITH, Law Office of Nathaniel B. Smith, New York, NY.

FOR DEFENDANTS-APPELLEES: RAYMOND D. MOSS, Assistant Solicitor General (Barbara D. Underwood, Solicitor General; Judith N. Vale, Deputy Solicitor General, *on the brief*), *for* Letitia James, Attorney General State of New York, New York, NY.

Appeal from a judgment of the United States District Court for the Eastern District of New York (Cogan, *J.*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the October 29, 2025, judgment of the District Court is **AFFIRMED**.

Plaintiff-appellant Zinnat Rahman appeals from the Eastern District of New York’s October 29, 2025, judgment granting defendants’ motion for summary judgment on all counts and closing the case.

Rahman brought this action against her supervisors, Martha Carlin and David Close, as well as against New York State Office of Mental Health officials Daniel Ragone and Gerald DeCusatis, alleging discrimination and retaliation in violation of the Fourteenth Amendment under 42 U.S.C. §1983, and in violation of the New York State Human Rights Law (“NYSHRL”), N.Y. Exec. Law §296. Rahman appeals the entry of summary judgment in favor of defendants on her retaliation claims under both §1983 and the NYSHRL; she does not appeal the judgment entered on any other claims.

BACKGROUND

In 2008, Rahman became an Assisted Outpatient Treatment Compliance Specialist in the New York State Office of Mental Health (the “Office”). On April 29, 2019, Rahman filed a complaint with the New York State Division of Human Rights (“NYSDHR”) and the Equal Employment Opportunity Commission (“EEOC”) “alleging unlawful discriminatory employment practices in violation of state and federal law arising from a failure to promote Rahman and to pay her equally.” App’x at 12.005. According to Rahman, “[t]he grounds for the discrimination arose from Rahman’s race (Asian), color (dark skin) and county [sic] of origin (Bangladesh).” App’x at 12.005. Rahman then brought this federal suit alleging that she suffered multiple adverse employment actions in retaliation for her filing of the NYSDHR complaint.

The District Court ruled, as relevant here, that Rahman had established a *prima facie* case of retaliation, but that defendants defeated the presumption of retaliation with evidence of legitimate, non-retaliatory reasons for the adverse actions, and Rahman failed to demonstrate that a triable question existed as to whether those reasons were pretextual. *See Rahman v. Carlin*, No. 2:22CV03309(BMC), 2025 WL 3013415, at *11-12 (E.D.N.Y. Oct. 28, 2025). This appeal followed.

We assume familiarity with the underlying facts, procedural history, and issues on appeal, to which we refer only as necessary to explain our decision to affirm.

DISCUSSION

“We review the district court’s grant of summary judgment *de novo*, construing the facts in the light most favorable to the non-moving party and drawing all reasonable

inferences in its favor.” *Knox v. CRC Mgmt. Co., LLC*, 134 F.4th 39, 47 (2d Cir. 2025) (citation modified). “Summary judgment is appropriate only if the moving party shows that there are no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law.” *Hicks v. Baines*, 593 F.3d 159, 166 (2d Cir. 2010) (citation modified).

Rahman brings retaliation claims under both §1983 and the NYSHRL. Retaliation claims under both are analyzed “under the familiar burden-shifting test established by the Supreme Court in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). Under this framework, a plaintiff carries the initial burden of making out a prima facie case of retaliation.” *Edelman v. NYU Langone Health Sys.*, 141 F.4th 28, 45 (2d Cir. 2025); see *Vega v. Hempstead Union Free Sch. Dist.*, 801 F.3d 72, 82, 85-90 (2d Cir. 2015) (holding that *McDonnell Douglas* framework applies to §1983 equal protection retaliation claims). “If the plaintiff establishes a prima facie case of retaliation . . . the defendant then has the opportunity to offer legitimate reasons for its actions.” *Edelman*, 141 F.4th at 45 (citation modified). The burden then “shifts back to the plaintiff” to demonstrate that either those reasons were “pretextual,” or that defendants’ conduct “was based at least in part on discrimination.” *Id.* (citation modified). To establish causation under the NYSHRL, a plaintiff must show that retaliatory animus “was a motivating factor,” meaning that “it played any role at all in the challenged conduct.” *Id.* at 49 (citation modified). A §1983 claim must meet a higher “but-for” causation standard. *Naumovski v. Norris*, 934 F.3d 200, 214 (2d Cir. 2019).

Summary judgment was appropriate on Rahman’s retaliation claims because even if Rahman established a *prima facie* case of retaliation as to certain adverse employment actions,¹ she failed to produce evidence rebutting defendants’ proffered legitimate reasons for those actions. That is, Rahman failed to produce evidence sufficient to raise a dispute of material fact as to whether defendants would have taken those actions but-for retaliatory animus, as required for the §1983 claim. She likewise failed to establish a dispute of material fact as to whether retaliatory animus was a motivating factor for the adverse employment actions, as required for the NYSHRL claim.

I. Adverse Employment Actions

To establish a *prima facie* case of retaliation under the NYSHRL, a plaintiff “must demonstrate that she took an action opposing her employer’s discrimination and that, as a result, the employer engaged in conduct that was reasonably likely to deter a person from engaging in such action.” *Edelman*, 141 F.4th at 45 (citation modified). In other words, an “adverse employment action” under the NYSHRL is any action by the employer that

¹ On appeal, Rahman contends that the District Court erred in finding that the only protected activity at issue is the filing of the April 29, 2019, discrimination complaint. *See Rahman*, 2025 WL 3013415, at *8 (“The parties agree that plaintiff engaged in protected activity when she filed her April 29, 2019 race/color and national origin discrimination complaint . . . and further agree that the instant action relates to solely this protected activity and no other.”). Rahman forfeited any argument that she engaged in any other protected activity because her operative complaint and her memorandum in opposition to summary judgment rely solely on the April 29, 2019, discrimination complaint. *See* App’x at 12.004 (Amended Complaint alleging that after defendants “learned of Rahman’s” April 2019 complaint, they “engaged in a series of retaliatory actions against” her); Memo. of Law in Opposition to Defs.’ Mot. for Summary Judgment at 5, *Rahman v. Carlin*, No. 2:22CV03309(BMC) (E.D.N.Y. Nov. 20, 2024), Doc. #48-2 (Rahman’s memorandum in opposition to summary judgment emphasizing that defendants “admit that Rahman engaged in protect[ed] activity when she filed in April 2019 charges of discrimination” and failing to identify any other protected activity).

is “reasonably likely to deter a person from” opposing discrimination. *Id.* (citation modified).

Under §1983, the standard is higher: “We define an adverse employment action as a materially adverse change in the terms and conditions of employment. An adverse employment action is one which is more disruptive than a mere inconvenience or an alteration of job responsibilities.” *Buon v. Spindler*, 65 F.4th 64, 79 (2d Cir. 2023) (citation modified). Examples include termination, demotion, failure to promote, and “the denial of a workplace opportunity that materially affects the terms and conditions of employment.” *Id.* at 80.

The District Court concluded that Rahman had presented evidence of five adverse employment actions: “(1) the first DeCusatis interrogation, held on January 9, 2020; (2) the second DeCusatis interrogation, held on March 9, 2020; (3) placement on administrative leave with pay on March 9, 2020; (4) the August 5, 2020 Notice of Discipline; and (5) the August 31, 2020 unsatisfactory annual evaluation.” *Rahman*, 2025 WL 3013415, at *10. Rahman argues that her August 2019 and February 2020 performance evaluations also should have been considered adverse employment actions. Those performance evaluations do not meet the §1983 standard, but we will assume for purposes of this ruling that they meet the NYSHRL standard.²

² We do not agree with Rahman that her allegations that Carlin surreptitiously took photos of her in a meeting, and that Close asked her if she had home security, would qualify as adverse employment actions under either standard.

II. Articulation of Legitimate, Non-Retaliatory Reasons for Actions

Once a plaintiff has established a *prima facie* case of retaliation – which we assume that Rahman has – “[t]his showing creates a presumption of retaliation, which the defendant may rebut by articulating a legitimate, non-retaliatory reason for the adverse employment action.” *Ya-Chen Chen v. City Univ. of New York*, 805 F.3d 59, 70 (2d Cir. 2015) (citation modified).

Defendants articulated legitimate, non-retaliatory reasons for all of the potentially adverse actions.³ The feedback in the August 2019 review related to a well-documented incident of poor work performance. The February 2020 review related to, among other things, Rahman’s refusal to follow supervisory instructions and assist co-workers – both of which were also well supported in the record. Similarly, the August 2020 review related to Rahman’s poor work performance that was highlighted in the February 2020 six-month review and, again, is supported by the undisputed record. The disciplinary actions – including the two “interrogations,” the March 2020 paid administrative leave, and the August 2020 Notice of Discipline – all followed the Office’s preexisting disciplinary procedures as well as the procedures set forth in the applicable Collective Bargaining Agreement. And the undisputed record establishes that these actions, too,

³ Notably, Rahman admits many of the statements of material fact related to her performance issues. Others may be deemed admitted because she neither admits nor denies the statements, or because she fails to provide any citation to evidence contradicting the evidence cited in support of the statement. To the extent Rahman disputes the statements of fact, she generally disputes the inferences to be drawn, rather than the facts themselves. In any event, even disregarding those statements that Rahman actually denies, there is ample evidence to support defendants’ assertions regarding her performance issues.

resulted from well-documented performance issues, and from Rahman’s refusal to participate in the investigation process following her own filing of an internal complaint against her supervisors.

Defendants have met their burden of providing legitimate, non-retaliatory reasons for taking these adverse employment actions.

III. Plaintiff’s Burden to Rebut Defendants’ Non-Retaliatory Reasons

Once a defendant articulates a non-retaliatory basis for the adverse employment actions taken, under §1983, the “presumption of retaliation dissipates,” and the burden shifts back to the plaintiff to establish “that the desire to retaliate was the but-for cause of the challenged employment action.” *Ya-Chen Chen*, 805 F.3d at 70 (citation modified); *see also Buon*, 65 F.4th at 78; *Edelman*, 141 F.4th at 45. Under the NYSHRL a plaintiff need only establish a “triable issue of fact as to whether the defendant’s explanations were pretextual.” *Leibowitz v. New York County Lawyers Ass’n*, 251 A.D.3d 1045, 1048 (2d Dept. 2026) (citation modified).

Rahman cannot satisfy either standard because she fails to show a genuine dispute of material fact regarding whether any of the proffered reasons were pretextual.

Defendants produced evidence that Rahman had documented performance issues before she filed the April 29, 2019, complaint that she contends triggered retaliation against her.

The “unsatisfactory” item in the August 2019 evaluation addressed an incident that occurred on April 12, 2019, that the record reveals was a topic of concern before April 29, 2019. *See App’x* at 202 (April 17, 2019, email discussing Rahman’s “[l]ack of [f]amiliarity with the ‘on-call’ policy,” “[k]nowledge [d]eficit,” failure to check email

regularly, disrespect toward a supervisor, and failure to be responsive). Likewise, as noted above, the negative aspects of Rahman's later performance evaluations and the disciplinary actions taken all reflect well-documented performance issues. *See App'x at 250-51, 307-10, 340-49, 731 ¶58, 733-34 ¶66, 737 ¶77.* The adverse actions alleged are not so close in time to the April 2019 complaint as to give rise to an inference of retaliation, and Rahman points to no comparators who were treated differently. In sum, she presents nothing but conclusory assumptions to support her claim that the actions taken were motivated in any part by retaliatory animus.

Based on the undisputed facts of record, we agree with the District Court that no reasonable jury could conclude that defendants' stated reasons for their actions were pretextual or that retaliation was a motivating factor in their actions. Summary judgment was therefore appropriate.

CONCLUSION

We have considered appellant's remaining arguments and find them to be without merit. For the foregoing reasons, the judgment of the District Court is **AFFIRMED**.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court