

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JEFFREY HUDSON,	:	Civil No. 4:12-CV-1255
	:	
Plaintiff	:	
	:	
v.	:	(Magistrate Judge Carlson)
	:	
GUARDSMARK, LLC,	:	
	:	
Defendant	:	

MEMORANDUM OPINION

I. INTRODUCTION

This action presents a dispute between Jeffrey Hudson and his former employer, Guardsmark, LLC. Hudson is a former security guard for Guardsmark, which among other things provides security services for companies engaging in oil and natural gas exploration in the Commonwealth of Pennsylvania. Hudson represents that he suffers from anxiety and depression, and alleges that Guardsmark discriminated against him on the basis of his mental health disabilities. Hudson further alleges that Guardsmark failed to accommodate his disability, retaliated against him on the basis of his disability, and eventually terminated his employment in violation of the Americans with Disabilities Act and the Pennsylvania Human Relations Act.

Guardsmark has moved for summary judgment on Hudson's claims, arguing that Guardsmark honored each of Hudson's requests for accommodation, and that the decisionmakers who ultimately decided to terminate Hudson's employment were entirely unaware of his purported disabilities. The plaintiff, in contrast, argues that employees of the defendant, including his manager, met his requests for workplace accommodation with hostility and discriminatory comments, and that they made derogatory comments to Mr. Hudson's supervisors about his medical conditions and need for time off of work. The plaintiff maintains that there is evidence to show that the defendant's eventual decision to terminate his employment was discriminatory, and that the non-discriminatory bases given for his termination were pretextual.

The parties have each filed two briefs in support of, and opposition to, the motion. The parties have also filed competing factual statements, which are themselves filled with numerous instances of the parties parsing and endeavoring to explain the facts presented and their significance to this case. Thus, in addition to answering the defendant's factual record, the plaintiff has identified 146 separate factual assertions with citation to record evidence, which the plaintiff contends make summary judgment unwarranted.

On the basis of this hotly disputed factual record, a record marked in some material respects by confusion, contradiction and controversy, we conclude that, with

the exception of the plaintiff's failure-to-accommodate claim, the parties have jointly demonstrated the existence of myriad issues of disputed fact, and thus questions regarding the plaintiff's claims for discrimination and retaliation must be resolved in this case by a factfinder, not by the court on summary judgment. Accordingly, mindful of standard of review which governs the court's assessment of the pending motion, and construing all facts and the reasonable inferences that can be drawn from them in the plaintiff's favor, the motion for summary judgment will be granted in part and denied in part.

II. BACKGROUND¹

Jeffrey Hudson is a 43 year-old male who lives in McElhattan, Pennsylvania. (Doc. 37, Pl. Counterstatement of Facts, ¶ 1) Hudson is a high school graduate and served in the military from 1989 until 2009, when he was honorably discharged. (*Id.*, ¶¶ 2-3.) Guardsmark is a national company that provides a variety of security services to clients, including oil and gas companies operating in the Commonwealth of Pennsylvania. (Doc. 33, Def. Statement of Facts, ¶ 1) One of Guardsmark's

¹ The factual background is taken from the parties' competing submissions of undisputed facts, to the extent the facts are admitted or otherwise undisputed. In addition, the facts have been taken in the light most favorable to the plaintiff as the nonmoving party, with all reasonable inferences drawn in his favor. However, nothing in this background will be taken to conclusively establish any fact that may ultimately be the subject of dispute at trial.

clients is Anadarko Petroleum Corporation, which operates a facility in Williamsport, Pennsylvania. (Id., ¶ 2.) Hudson was hired by Guardsmark as a security guard on November 4, 2010, and was hired to work as a security guard on Anadarko work sites. (Doc. 37, Pl. Counterstatement of Facts, ¶ 4; Doc. 35, ¶ 10)

According to the plaintiff, he suffers from certain serious mental health conditions, including anxiety and depression, and these conditions required him periodically to take time off of work in 2011 while he sought medical treatment. Hudson was diagnosed more than a decade ago with anxiety, and was more recently diagnosed in the summer of 2011 with depression. During the hiring process, Hudson informed Doug McKinney, a former Guardsmark manager, that he suffered from anxiety. (Doc. 37, ¶ 6) According to Hudson, he informed McKinney about his condition because he wondered whether his anxiety diagnosis would affect his chances of securing employment or affect his ability to complete his responsibilities as a security guard. (Id.)

During his time of employment with Guardsmark, Hudson worked as a security officer at various locations until his employment was terminated on August 27, 2011. (Id., ¶ 7.) Among his job duties, Hudson was responsible for guarding the worksite perimeter, greeting visitors, and securing the site. (Id., ¶ 8.) During his employment, Hudson was supervised by, among others, Kaitlyn Deinarowicz, who was a senior

supervisor who was later promoted to Relationship Manager. (Id., ¶ 9 and Def. Response to Counterstatement, ¶ 9.) Ms. Deinarowicz was not the plaintiff's direct supervisor, but supervised the salaried supervisors, who in turn directly supervised the plaintiff. (Doc. 37, Pl. Counterstatement of Facts, ¶ 9; Doc. 39, Def. Response, ¶ 9) The salaried supervisors who were Hudson's direct supervisors included Matthew Winslow, Ron Yeagle, and Eric Paplarin. These supervisors reported to Deinarowicz. (Doc. 37, Pl. Counterstatement of Facts, ¶ 10) Deinarowicz was responsible for preparing the plaintiff's work schedule. (Id., ¶ 20.)

Prior to commencing his employment, the plaintiff received a two-hour training session, which was supplemented with on-the-job training throughout the course of his time with Guardsmark. (Id., ¶ 12.) Hudson's first assignment was at a work location known as the Texas Blockhouse, and this assignment lasted three or four months. (Id., ¶ 13.) Typically throughout his employment, Hudson worked 12-hour shifts, two or three days per week. (Id., ¶ 14.)

In June 2011, Hudson requested and took two weeks off of work because of his mental health conditions. (Id., ¶ 21.) During this time, Hudson provided the defendant with a medical excuse for his absences from work. (Id., ¶ 22.) In addition, Hudson testified that he was absent from work approximately six or seven other times because of his mental health needs. (Id., ¶ 23.) According to Hudson, every time he

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