United States Court of Appeals
For the First Circuit

No. 23-1983

JARED PIERCE SANCHEZ,

Plaintiff - Appellant,

v.

BROWN UNIVERSITY; CARE NEW ENGLAND HEALTH SYSTEMS; LIFESPAN CORPORATION,

Defendants - Appellees.

Before

Kayatta, Gelpí and Rikelman,
Circuit Judges.

JUDGMENT

Entered: June 11, 2024

Appellant Jared Pierce Sanchez appeals from a judgment entered in the District Court for the District of Rhode Island. Pursuant to Federal Rule of Civil Procedure 12(b)(6), the district court dismissed the appellant's complaint featuring discrimination and other types of claims and denied various motions, including motions to amend and for reconsideration. The appellant also has filed motions in this court, including a "Motion For Sanctions . . ." and a "Motion to Expedite Injunction Pending Appeal and for Oral Arguments to be Heard."

We have carefully reviewed the appellant's arguments and have read them liberally because he is pro se. See Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam). We have deemed challenges waived as appropriate where the appellant has raised no developed argument in briefing. See United States v. Nishnianidze, 342 F.3d 6, 18 (1st Cir. 2003) (pro se appellants may waive challenges through a failure to develop them on appeal).

After a careful review of the arguments the appellant has raised and developed in his opening brief, we can see no compelling challenge to the rulings of the district court and thus affirm those rulings, for substantially the reasons offered by the district court. See Newman v. Lehman Bros. Holdings Inc., 901 F.3d 19, 24 (1st Cir. 2018) ("This court reviews the grant of Rule

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12(b)(6) motions de novo."); see also Efron v. UBS Fin. Servs. Inc. of Puerto Rico, 96 F.4th 430, 437 (1st Cir. 2024) (reviewing denial of leave to amend for abuse of discretion); U-Nest Holdings, Inc. v. Ascensus Coll. Sav. Recordkeeping Servs., LLC, 82 F.4th 61, 63 (1st Cir. 2023) ("Our review for denial of a Rule 60 motion . . . is for abuse of discretion.").

The district court clearly articulated one or more reasons for dismissing each of the claims the appellant offered, and, to the extent the appellant has addressed those reasons at all in briefing, he has failed to demonstrate any error. To take just one example, the district court concluded that, for purposes of his Title VII claims, the appellant had failed to allege the existence of a qualifying employment relationship between himself and the defendants, and, in briefing before this court, the appellant offers no availing challenge to that conclusion. See Walters v. Metro. Educ. Enterprises, Inc., 519 U.S. 202, 207 (1997) ("In common parlance, an employer 'has' an employee if he maintains an employment relationship with that individual."); Lopez v. Massachusetts, 588 F.3d 69, 72 (1st Cir. 2009) (evaluating whether defendants were "employers" under Title VII to determine whether a Title VII claim could be brought against them and observing: "The Title VII claim depends on the state being the 'employer' of the officers.").

Any pending requests in the motions filed in this court are resolved as follows. To the extent that the appellant seeks sanctions or related relief, and to the extent those requests are not moot, the requests are denied. To the extent that the appellant seeks relief other than sanctions, including injunctive relief, those requests are denied as moot based on our conclusion that the appeal lacks merit.

The judgment of the district court is **AFFIRMED**. See Local Rule 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:
Jared Pierce Sanchez
Mitchell R. Edwards
John M. Wilusz
Joseph D. Whelan
Matthew Hayes Parker
James A. Musgrave

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

JARED PIERCE SANCHEZ, Plaintiff, v. BROWN UNIVERSITY; CARE NEW ENGLAND HEALTH SYSTEM; and LIFESPAN CORPORATION, Defendants.	C.A. No. 23-343-JJM-PAS

ORDER

The Court entered judgment, dismissing Plaintiff Jared Pierce Sanchez's Complaint against Defendants Brown University, Care New England Health System, and Lifespan Corporation, after deciding several dispositive motions and denying Mr. Sanchez's motion to amend his Complaint. ECF No. 46. He appealed the Court's Orders to the First Circuit Court of Appeals.[1] While that appeal was pending, he filed four motions before this Court: Motion to Vacate (ECF No. 47); Motion for Recusal (ECF No. 48); Motion to Amend/Correct Defendant Name to *Care New England Health System* (ECF No. 52); and Motion for Leave to File Document Sur-Reply (ECF No. 55).

[1] Because Mr. Sanchez had an appeal pending in the First Circuit, this Court would normally not have jurisdiction to decide these motions. Anticipating this issue, the First Circuit entered an Order finding that "[p]ursuant to Fed. R. App. P. 4(a)(4)(B)(i), the notice of appeal does not become effective until the district court disposes of the post judgment motion [Motion to Vacate, ECF No. 47]." ECF No. 51.

The Court can easily dispatch the latter two motions. The Court GRANTS Mr. Sanchez's Motion to Correct the name of the Defendant from "Care New England Health Systems" to "Care New England Health System." ECF No. 52. The Court GRANTS the Motion to File the Sur-Reply, which is actually a Reply to the Opposition. ECF No. 55. The Court has considered the Reply in deciding the Motions to Vacate and Recuse. Now the Court moves on to the meatier motions.

1. MOTION TO VACATE

Mr. Sanchez asks this Court to vacate: (1) its two Orders dismissing his claims against Defendants Lifespan, Brown University, and Care New England; and (2) its Order denying his Motion to Amend the Complaint. ECF Nos. 16, 45. After reviewing the briefing and record in this case, the Court finds that Mr. Sanchez has raised no grounds for the Court to vacate these Orders.

First, as to the dismissal of Mr. Sanchez's claims against the three Defendants, the Court correctly held that his Complaint did not state a claim upon which relief could be granted, and nothing he has put forth in his Motion to Vacate changes that opinion. Simply put, Mr. Sanchez has pleaded causes of action that do not apply to his situation. Because he is a student at Brown University and not in any of the Defendants' employ, Title VII does not supply any protection or relief for him. Second, he alleges religious discrimination under Title VI, but Title VI does not cover discrimination based on religion. Finally, he asserts a First Amendment claim, but the First Amendment is limited to government action, and no matter how he

- Mr. Sanchez claims there is a "substantial overlap with influential members [of the Crossroads Board] directly involved in this case."[4] *Id.* Crossroads is a 501 (c)(3) independent nonprofit, unaffiliated with any of the Defendants in this case. Mr. Sanchez cites to the fact that certain individuals also serve on the Board: Nicole E. Alexander-Scott, Clinical Professor at Brown University; Dr. Margaret M. Van Bree, former president of Rhode Island Hospital and Hasbro Children's Hospital; and M. Teresa Paiva-Weed, Esq, president of the Hospital Association of Rhode Island. *Id.* at 5. First, each of these people serves on the Board of Crossroads in their individual, not in their professional capacities. There is no affiliation between Crossroads and any of these entities. Second, nothing about this matter, or any matter involving any of the Defendants, has ever come before the Board of Directors of Crossroads. Third, Dr. Alexander-Scott left the Department of Health in January 2022, Dr. Van Bree left R.I. Hospital years before the allegations in the Complaint, and Ms. Paiva-Weed, is the executive director of a trade association. Nothing about the district court judge's membership on the Board of Directors of Crossroads with these individuals creates any conflict of interest and is not a cause for recusal.

- The district judge graduated from Brown University over 43 years ago. (Class of 1980). He has had no official contact or involvement with Brown since that time. The district judge has presided over twenty-five cases with Brown as a party, and never has anyone alleged a conflict exists because the district judge is an alum.

[4] This statement in not true. Neither Crossroads nor anyone on the Board is directly involved in this case.

There is nothing about the simple fact that the district judge graduated from a university that creates a conflict requiring recusal.

Mr. Sanchez also seeks recusal based on an allegation of "judicial precedent" in which he states: "Judge McConnell's judicial record, as observed in Rhode Island's FY 2022 Budget Enacted Section VI Special Reports (Pp. 813), shows a pattern of decisive action in cases involving complex institutional interrelations." *Id.* It is unclear what "decisive action" Mr. Sanchez objects to, but the Court's decisions in that unrelated case speak for themselves and do not provide a justification for demanding recusal.

- Mr. Sanchez alleges that the Court should recuse because the Defendants engaged in inappropriate communication with the Judge's Case Manager. First, he alleges that communication between defense counsel and the judge's case manager were *ex parte*. *Id.* at 7. Again, this is not true; Mr. Sanchez was copied on all administrative emails from and to the Judge's Case Manager. Second, the communication only involved administrative matters.

- Finally, Mr. Sanchez alleges that "swift judicial action on two occasions" is somehow evidence of the judge's bias. He does not point out that the Court issued its Order after reviewing all the fully briefed issues. An efficiently issued and prompt order is not evidence of bias.

The Court has considered all of Mr. Sanchez's reasoning in favor of recusal and finds that recusal is not warranted. The Court DENIES Mr. Sanchez's Motion to Recuse. ECF No. 48.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

JARED PIERCE SANCHEZ,
Plaintiff,

v.

C.A. No. 1:23-cv-343-JJM-PAS

BROWN UNIVERSITY; CARE NEW ENGLAND HEALTH SYSTEMS; and LIFESPAN CORPORATION,
Defendants.

ORDER

Jared Pierce Sanchez was a medical student at Brown University ("Brown"). He alleges that Brown, Lifespan Corporation ("Lifespan"), and Care New England Health Systems ("Care New England") discriminated against him based on his religion. Mr. Sanchez alleges he was forced to take a 2-year leave of absence from school because he refused to be vaccinated against COVID-19. ECF No. 1. Brown gave him an exemption based on his religious beliefs, but Lifespan's COVID-19 vaccination policy at that time required anyone with access to Rhode Island Hospital to be vaccinated and it did not recognize any exemptions. *Id.* He sues Brown, Lifespan, and Care New England, claiming a violation of his rights under Titles VI and VII of the Civil Rights Act 1964 ("Title VI," and "Title VII"), and the First Amendment to the United States Constitution. *Id.* Lifespan moves to dismiss. ECF No. 6.

I. STANDARD OF REVIEW

To survive a motion to dismiss under Rule 12(b)(6), a plaintiff must allege facts, accepted as true, sufficient to "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotations omitted) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The Court evaluates a pro se plaintiff's allegations liberally; a pro se plaintiff is held to less stringent pleading standard but must still allege facts to support a plausible claim. *Overton v. Torruella*, 183 F. Supp. 2d 295, 303 (D. Mass. 2001) (citing *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972), *Lefebvre v. C.I.R.*, 830 F.2d 417, 419 (1st Cir. 1987)).

II. DISCUSSION

A. Title VII Claims

Title VII prohibits employers from discriminating against employees based on their race, color, religion, sex (including sexual orientation), or national origin. 42 U.S.C. § 2000e-2. Title VII defines an employee as "an individual employed by an employer. . ." and defines an employer as a person engaged in industry affecting commerce "who has fifteen or more employees" per day. 42 U.S.C. § 2000e(f), (b). Where a statute defines "employee" in a circular way, the Supreme Court, and the First Circuit have held that common law agency principles apply.[1] *Lopez v.*

[1] The First Circuit looks to a non-exhaustive list of factors outlined in the EEOC's Compliance Manual. *Lopez*, 588 F.3d. at 85 (citing *Clackamas Gastroenterology Assocs., P.C. v. Wells*, 538 U.S. 440, 448-50 (2003)). These include right to control, the degree of skill required, whether work was performed on premises, the existence of a continuing relationship, right to assign projects, the subjective view of the parties, and factors related to hours, duration, payment,

Massachusetts, 588 F.3d 69, 83-86 (1st Cir. 2009) (citing *Nationwide Mut. Ins. Co. v. Darden*, 503 U.S. 318, 323 (1992)).

Mr. Sanchez is a medical student enrolled at Brown University. ECF No. 1 at 4. By his own account, he is a "student trainee." *Id.* He explains that he was "subjected to [Lifespan's] schedules, responsibilities, and obligations" and that he operated "under the guidance and supervision of Lifespan's staff" but has not alleged how, specifically, Lifespan exercised control over his working conditions. ECF No. 7 at 2. He has not alleged the existence of a continuing relationship, or any facts related to hours, duration, payment, or benefits. ECF No. 10-1 at 1. To establish an employment relationship, he points to his obligations as a student under the Warren Alpert Medical School Handbook (ECF No. 7 at 2) and seeks a remedy for the interruption of his educational progression, further suggesting that he a student, not an employee. ECF No. 10-1 at 1. Because Mr. Sanchez has not alleged that he was employed by Lifespan, he was not protected under Title VII, and therefore has no cause of action against it

B. Title VI Claim

Title VI provides that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d. Title VI does not cover discrimination based

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taxation, and provision of benefits, which are evaluated based on a totality of the circumstances. *Id.*

on religion. Because Mr. Sanchez's claim is based on his religion, he fails to state a claim under Title VI.

C. First Amendment Claim

"The First Amendment prohibits *government* from 'abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.'" *Am. for Prosperity Found. v. Bonta*, 141 S. Ct. 2373, 2382 (2021) (emphasis added). Here Mr. Sanchez does not allege any governmental action that inhibited his rights under the First Amendment. Under the public-function test, however, a private actor may be subject to constitutional constraints if it exercises powers "traditionally *exclusively* reserved to the State." *Rockwell v. Cape Cod Hosp.*, 26 F.3d 254, 258 (1st Cir. 1994) (citing *Jackson v. Metro. Edison Co.*, 419 U.S. 345, 352 (1974)) (intermediate citation omitted). Offering clinical rotations is not exclusively a state function, and under established precedent, receipt of federal funds does not transform a hospital into a state actor.[2] *Rockwell*,

[2] This principal was upheld in another district as recently as last month in the context of COVID-19 vaccination exemptions. *McEntee v. Beth Israel Lahey Health, Inc.*, No. 22-cv-11952-DLC, 2023 WL 4907617, at *4 (D. Mass. Aug. 1, 2023).

26 F.3d at 258 (citation omitted). Thus, Mr. Sanchez has no cause of action against Lifespan under the First Amendment.

The Court GRANTS Defendant Lifespan Corporation's Motion to Dismiss. ECF No. 6.

IT IS SO ORDERED.

John J. McConnell, Jr.
Chief Judge
United States District Court

October 4, 2023