

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

**No. 22-7142**

**September Term, 2023**

FILED ON: MAY 8, 2024

ANDRE FERGUSON,

APPELLANT

v.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,

APPELLEE

---

Appeal from the United States District Court  
for the District of Columbia  
(No. 1:20-cv-03395)

---

Before: SRINIVASAN, *Chief Judge*, HENDERSON and RAO, *Circuit Judges*.

**J U D G M E N T**

This case was considered on the record from the United States District Court for the District of Columbia and on the briefs and oral arguments of the parties. The panel has afforded the issues full consideration and determined they do not warrant a published opinion. *See* FED. R. APP. P. 36; D.C. CIR. R. 36(d). For the following reasons, it is

**ORDERED** that the district court’s grant of summary judgment be **AFFIRMED**, primarily for the reasons stated by the district court in its September 21, 2022, memorandum opinion in support thereof.

Andre Ferguson, an employee of the Washington Metropolitan Area Transit Authority (WMATA), brought discrimination, retaliation and hostile work environment claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e through 2000e-17. Ferguson failed to exhaust all of his retaliation claims as well as his discrimination claims other than those related to his 2019 non-promotion and WMATA’s 2019 issuance of a performance improvement plan. *See* 42 U.S.C. § 2000e-5(e)(1); *Nat’l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 114–15 (2002); *Park v. Howard Univ.*, 71 F.3d 904, 907 (D.C. Cir. 1995). All of his Title VII claims require him to demonstrate that WMATA’s alleged adverse actions were taken “because of [his] race, color, religion, sex, or national origin.” 42 U.S.C. § 2000e-2(a)(1). Ferguson, however, failed to tie any of WMATA’s alleged adverse actions to his race. Accordingly, his exhausted discrimination claims and hostile work environment claim fail on the merits. We affirm the district court’s grant

of summary judgment to WMATA and denial of Ferguson's cross-motion for summary judgment.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing *en banc*. See FED. R. APP. P. 41(b); D.C. CIR. R. 41.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Michael C. McGrail  
Deputy Clerk