UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MARK A.,RONALDES,	:	
	:	
Plaintiff,	:	
	:	
V.	:	CASE NO. 3:99CV1989 (RNC)
	:	
CITY OF HARTFORD, ET AL.,	:	
	:	
Defendants.	:	

RULING AND ORDER

Plaintiff Mark Ronaldes, a Caucasian male formerly employed by the Department of Housing of the City of Hartford, brings this action against the City and former City Manager Saundra Kee Borges, claiming that he was passed over for promotion to the position of Acting Assistant Director of Housing and Community Development in favor of a less qualified African-American female in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq. ("Title VII"), the Connecticut Fair Employment Practices Act, Conn. Gen. Stat. §§ 46a-58(a) and 46a-60 ("CFEPA"), and 42 U.S.C. § 1983. The complaint also contains state law claims for negligent and intentional infliction of emotional distress. The defendants have moved for summary judgment on all the claims. The motion is denied as to the Title VII and CFEPA claims, granted in part as to the § 1983 claim and granted in full as to the other state law claims.

The evidence in the record, viewed most favorably to the

plaintiff, discloses a series of admissions which, if viewed collectively, and interpreted in the plaintiff's favor, could support a verdict for him on the discrimination claim. The evidence shows that in 1997, when plaintiff did not receive an exceptional service increment, a supervisor told him it was due to a "black/white thing." Later, when the position at issue here became available, the same supervisor, in explaining to the plaintiff why he would not get the position, told him, "You know the reason why." In a subsequent meeting on the same subject, Borges told the plaintiff that he did not get the position because the (allegedly less-qualified) African-American female had been "targeted" for it. This series of admissions, interpreted most favorably to the plaintiff, would permit a jury to infer that he did not get the position because of his race.[1]

The City contends that it cannot be held liable under § 1983 for the alleged discrimination in violation of the Equal Protection Clause because there is no evidence of a municipal policy, custom, or pattern of discrimination against

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[1] Defendants contend that the plaintiff has not suffered an adverse employment action. However, a reasonable jury could find that the position of Assistant Director of Housing was superior to his position, needed to be filled after the incumbent was reassigned, and was denied to the plaintiff, although he was well-qualified.

Caucasian males in employment decisions. Zahra v. Town of Southold, 48 F.3d 674, 685 (2d Cir. 1995) ("To hold a municipality liable in such an action, 'a plaintiff is required to plead and prove three elements: (1) an official policy or
custom that (2) causes the plaintiff to be subjected to (3) a denial of a constitutional right.'" (quoting Batista v. Rodriguez, 702 F.2d 393, 397 (2d Cir. 1983)).) On the record before me, I agree. Though plaintiff refers to other incidents and other cases, he has adduced no admissible evidence that would support a finding of a municipal policy, custom or pattern of discrimination. Accordingly, the § 1983 claim against the City is dismissed.[2]

Borges claims that she is entitled to qualified immunity with regard to the § 1983 equal protection claim. I disagree. Crediting plaintiff's version of the relevant events, including his discussion with Borges, and viewing the evidence in a light most favorable to him, as the court must in deciding the issue of qualified immunity at this stage of the litigation, a reasonable jury could find that Borges's

[2] Plaintiff's memorandum in opposition does not attempt to refute the City's argument that when Borges made the employment decision at issue she was not acting as a final policymaker. Accordingly, any such claim is deemed abandoned.

decision to deny him the promotion was based at least in part on his race. Borges does not contend that a reasonable official in her position could think such discrimination was lawful. Accordingly, she is not entitled to qualified immunity.

Plaintiff's claim for intentional infliction of emotional distress is based primarily on Borges's decision to deny him the promotion. Under Connecticut law, acts of employment discrimination support a claim for intentional infliction of emotional distress only if they can fairly be characterized as extreme and outrageous. Harhay v. Blanchette, 160 F. Supp. 2d 306, 315 (D. Conn. 2001) (citing Appleton v. Bd. of Ed. of the Town of Stonington, 254 Conn. 205, 210, 757 A.2d 1059 (2000)). The discriminatory conduct alleged here does not sink to that level. Accordingly, the intentional infliction of emotional distress claim is dismissed.

As for the claim for negligent infliction of emotional distress, plaintiff has conceded that summary judgment should be granted because of state law immunity. In addition, the Connecticut Supreme Court has ruled that, in the employment context, claims for negligent infliction of emotional distress may be brought only in cases involving termination of employment. Parsons v. United Technologies Corp., Sikorsky

Aircraft Division, 243 Conn. 66, 88-89, 700 A.2d 655 (1997) (citing Morris v. Hartford Courant Co., 200 Conn. 676, 682 (1986). This is not such a case and summary judgment is therefore appropriate on the negligence claim.

Accordingly, the motion for summary judgment is denied in part and granted in part. The § 1983 claim against the City, and the claims for intentional and negligent infliction of emotional distress are dismissed. The remaining claims will be left for resolution at trial. The parties will submit their joint trial memorandum in accordance with the scheduling order. A final pretrial conference will be scheduled after the joint trial memorandum is received. A settlement conference may be requested at any time.[3]

So ordered.

Dated at Hartford, Connecticut this 27th day of September 2002.

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Robert N. Chatigny
United States District Judge

[3] This ruling makes it unnecessary to address the motion to strike.