

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0437**

Joseph J. Walters,
Appellant,

vs.

Minnesota Department of Corrections,
Respondent.

**Filed November 25, 2024
Affirmed
Worke, Judge**

Sherburne County District Court
File No. 71-CV-22-1019

Sarah R. Jewell, John A. Abress, River Valley Law, P.A., Waite Park, Minnesota (for appellant)

Keith Ellison, Attorney General, Nick Pladson, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Larson, Presiding Judge; Worke, Judge; and Bjorkman, Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges the summary-judgment dismissal of his claims for violations of the anti-discrimination and retaliation provisions of the Minnesota Occupational Safety and Health Act of 1973 (MNOSHA), Minn. Stat. § 182.669 (2022), and the Minnesota Whistleblower Act (MWA), Minn. Stat. § 181.932 (2022 & Supp. 2023), arguing that the

district court erred by determining that the claims are barred by res judicata and alternatively that there is no genuine issue of material fact. We affirm.

FACTS

Appellant Joseph J. Walters worked as a corrections officer for respondent Minnesota Department of Corrections (the DOC). Walters worked in a therapeutic unit that houses chemically-dependent inmates nearing the end of their incarcerations. During the COVID-19 pandemic, Walters was required to wear an N95 mask, along with a face shield or safety goggles. Walters found the protective equipment problematic and communicated his concerns with a safety administrator.

On January 12, 2021, Walters was observed wearing his safety goggles incorrectly and was directed to wear them correctly. Walters claimed that he had not been properly trained how to wear his goggles. On February 10, 2021, Walters filed a complaint with the federal Occupational Safety and Health Act (OSHA). On March 2, 2021, OSHA conducted an on-site inspection but found no violations.

On March 18, 2021, Walters informed his supervisor that he was the one who filed the OSHA complaint. Walters's supervisor allegedly replied that "administration . . . 'has a way of getting you back if you [go] against them.'"

In April and May 2021, inmates complained that Walters was disrupting and refusing access to tools essential for their therapeutic program, like supplies for completing paperwork. Walters was directed to discontinue his poor treatment of the inmates. In June 2021, Walters received an oral reprimand, "the lowest possible level of discipline . . . for

repeatedly defying directives.” This oral reprimand was not recorded in Walters’s personnel file.

On June 23, 2021, Walters filed an MNOSHA complaint, alleging that he had been retaliated against because of his February 2021 OSHA complaint. In September 2021, the DOC was notified that Walters amended the MNOSHA discrimination complaint, alleging that the DOC denied leave requests, including for religious holidays, because of the OSHA complaint.

On February 25, 2022, Walters received a written reprimand for violating a code-of-conduct policy.

In May 2022, Walters filed a federal lawsuit against the DOC, alleging that the DOC violated Title VII between February and October 2021 by denying Walters’s religious-holiday leave requests. Walters stipulated to dismissal of his federal lawsuit, and on August 17, 2022, the federal court dismissed Walters’s lawsuit with prejudice and on the merits.

On August 18, 2022, Walters filed this state lawsuit against the DOC raising an MNOSHA discrimination claim and an MWA retaliation claim, asserting that he was reprimanded not for his conduct, but for filing the OSHA complaint. He cited his supervisor’s statement that “administration . . . ‘has a way of getting you back’” to support his contention that the DOC retaliated against him for filing the OSHA complaint.

The DOC moved for summary judgment. At a hearing on the motion, the DOC argued that res judicata applied because the allegations in the federal and state lawsuits were intertwined and based on the same event—the filing of the February OSHA

complaint. The DOC argued that even if res judicata did not apply, Walters failed to make a prima facie case for OSHA discrimination and whistleblower retaliation because he failed to show a causal connection between the reprimands and the OSHA complaint.

Walters countered that the two lawsuits sought remedies for “separate events.” Granted, he did believe that the DOC had a “vendetta” and that was why he was mistreated and denied religious-holiday leave. Walters admitted that “the only real contested matter[.]” was his supervisor’s statement that administration “has a way of getting back at you.”

The district court granted the DOC’s motion for summary judgment. The district court concluded that Walters’s claims were barred by res judicata because the claims in the two lawsuits “arise from the same nucleus of operative facts,” both lawsuits involve the same parties, the federal lawsuit was “dismissed with prejudice and on the merits,” and Walters had a full and fair opportunity to litigate the federal lawsuit. The district court also concluded that, even if res judicata did not bar the lawsuit, summary judgment was still appropriate. The district court concluded that the “only issue of fact that is in dispute . . . is the alleged comment made by [Walters’s supervisor].” The district court took the comment as true but determined that Walters’s claim still failed. This appeal followed.

DECISION

Res judicata

Walters first argues that the district court erred by concluding that res judicata barred the state lawsuit. The DOC asserts that res judicata applies because Walters chose to split his claims between federal and state court, which res judicata bars.

The application of res judicata is a question of law reviewed de novo. *Hauschildt v. Beckingham*, 686 N.W.2d 829, 840 (Minn. 2004). Res judicata precludes parties from raising subsequent claims in a second action when: “(1) the earlier claim involved the same set of factual circumstances; (2) the earlier claim involved the same parties or their privies; (3) there was a final judgment on the merits; (4) the estopped party had a full and fair opportunity to litigate the matter.” *Id.* “Res judicata applies to all claims actually litigated as well as to all claims that could have been litigated in the earlier proceeding.” *State v. Joseph*, 636 N.W.2d 322, 327 (Minn. 2001).

Walters argues that the district court erroneously concluded that the federal lawsuit involved the same factual circumstances as the state lawsuit. Walters does not present arguments as to the other three elements of the doctrine of res judicata.

The district court appropriately concluded that the two lawsuits involve the same factual circumstances. During Walters’s deposition, he was asked if he alleged “that between the dates of February 17th, 2021, and November 5th, 2021, [he was] subjected to religious discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964?” Walters replied: “Correct, and now this is jogging my memory that this was *all part of the OSHA complaint*, as well, that *after I complained, they stopped giving me religious holidays off.*” (Emphasis added.) Walters was asked: “So in addition to the . . . reprimands . . . [the DOC] also denied religious holidays off because you had complained to OSHA?” Walters replied: “Yes. Yes, they did.” Walters was also asked: “[W]hen you say that you were retaliated against by being denied leave as a result of your OSHA complaint, was that also something that was a part of this [current] lawsuit?” Walters

replied: “That would have been the catalyst for this type of discrimination.” Walters’s statements establish that the two lawsuits involve the same set of factual circumstances.

The record also includes a letter dated September 8, 2021, regarding Walters’s discrimination complaint. The letter indicates that an investigation would be conducted regarding additional allegations raised by Walters, including:

- [Walters] has not been approved for a single religious holiday request.
- On 7/9/2021, [Walters] requested leave for 12/24/2021, but that request was subsequently denied.
- On 8/11/2021, [Walters] requested leave for 8/26/2021. [Walters] stated the request was denied
- *Had it not been for [Walters] raising safety-related concerns and filing complaints with Federal OSHA and MNOSHA, his leave requests would not have been denied.*

(Emphasis added.) In these additional complaints regarding denial of his religious-holiday requests, Walters claimed that he was denied leave because he filed the OSHA complaint. These allegations also show that the lawsuits involved the same set of factual circumstances.

Walters could have raised the claims asserted in this action in the prior action. They are based on the same set of facts—Walters filed an OSHA complaint and then alleged that he was reprimanded for doing so, which included denials of his holiday-leave requests. *See Magee v. Hamline Univ.*, 775 F.3d 1057, 1059 (8th Cir. 2015) (per curiam) (holding that res judicata barred claims when prior federal action challenged same series of events under a different theory of recovery). The district court properly concluded that res judicata barred the current action.

Summary judgment

Walters also argues that the district court erred by concluding that summary judgment was appropriate because Walters failed to show a prima facie case for discrimination or retaliation.

Summary judgment is appropriate when the record “shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01. This court reviews de novo whether there are any genuine issues of material fact and “whether the district court erred in its application of the law.” *STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 77 (Minn. 2002). “A genuine issue of material fact exists when there is sufficient evidence regarding an essential element to permit reasonable persons to draw different conclusions.” *St. Paul Park Refining Co. v. Domeier*, 950 N.W.2d 547, 549 (Minn. 2020) (quotation omitted). This court views “the evidence in the light most favorable to the nonmoving party . . . and resolve[s] all doubts and factual inferences against the moving part[y].” *Rochester City Lines, Co. v. City of Rochester*, 868 N.W.2d 655, 661 (Minn. 2015).

MNOSHA prohibits discrimination against an employee because they filed an OSHA complaint. Minn. Stat. § 182.669. The MWA prohibits an employer from retaliating against an employee who, in good faith, reported a violation of law or a suspected violation of law. Minn. Stat. § 181.932, subd. 1(1). When, as here, there is no direct evidence of discrimination, courts use the “*McDonnell Douglas* burden-shifting framework to allocate the burden of proof between the plaintiff and defendant.” *Hanson v. Dep’t of Nat. Res.*, 972 N.W.2d 362, 372-73 (Minn. 2022). There are three steps: first,

Walters “must establish a prima facie case of discrimination.” *See id.* at 373. To establish a prima facie case for his discrimination claims, Walters was required to show “(1) statutorily-protected conduct by [himself]; (2) adverse employer action by the [DOC]; and (3) a causal connection between the two.” *See Rothmeier v. Inv. Advisers, Inc.*, 556 N.W.2d 590, 592 (Minn. App. 1996), *rev. denied* (Minn. Feb. 26, 1997). Second, the burden shifts to the DOC to show “some legitimate, nondiscriminatory reason to explain why it took the adverse employment action.” *See Hanson*, 972 N.W.2d at 373 (quotation omitted). Walters then has the final burden to demonstrate that the DOC’s “proffered reason is pretextual.” *See id.*

There does not appear to be a dispute that Walters engaged in protected conduct under MNOSHA. But the DOC argues that Walters’s conduct was not protected under the MWA because he alleged a violation of a law that does not exist.

Walters “complained that the DOC’s procedures for respirator-fit testing and medical evaluations did not comply with OSHA regulations.” He claims that his actions are protected because under the MWA, he is protected for reporting suspected violations of OSHA. If, as the DOC claims, the law that Walters complained was violated did not exist, Walters may have still had a good-faith belief that there was a law that was being violated. But even if Walters was engaged in protected conduct, he fails to show a causal connection between his conduct and that of the DOC.

On February 10, 2021, Walters filed the OSHA complaint. In March 2021, Walters informed his supervisor that he filed the OSHA complaint. It was not until June 2021 that Walters received an oral reprimand. Then in February 2022, Walters received a written

reprimand. Walters provides no caselaw to support his claim that “[t]he temporal proximity between [the] OSHA complaint in February 2021 and the subsequent reprimands [in June 2021 and February 2022] supports an inference of retaliation.” The alleged adverse actions occurred four and twelve months after the filing of the complaint. *See Potter v. Ernst & Young, LLP*, 622 N.W.2d 141, 145-46 (Minn. App. 2001) (stating that causal connection existed because employment termination occurred “within less than three months” after discrimination complaint). The temporal connection here—four months and twelve months—fails to establish a causal connection.

Additionally, Walters conceded that the only fact issue was his supervisor’s statement. Again, there is no temporal connection because the statement occurred in March and Walters did not receive an oral reprimand until June. And this oral reprimand was not even documented in Walters’s personnel file, so it had no adverse effect. Considering this timeline of events, Walters has failed to establish a causal connection between the OSHA complaint and the reprimands. Because Walters failed to establish a *prima facie* case of discrimination, the district court properly granted the DOC’s motion for summary judgment.

Pleadings

Finally, Walters argues that the district court should have permitted him to add additional incidents of retaliation to his complaint that occurred in October and November 2022. Under the scheduling order, the deadline to add claims was December 7, 2022. On July 13, 2023, Walters stated during his deposition that the complaint should include the additional incidents.

“[A] party may amend a pleading only by leave of court or by written consent of the adverse party” if outside the timeframe to amend a pleading as a matter of course. Minn. R. Civ. P. 15.01. Leave to amend the pleadings should be liberally granted, except when the other party would be prejudiced. *Fabio v. Bellomo*, 504 N.W.2d 758, 761 (Minn. 1993). When a party proposes an amendment that would modify the district court’s scheduling order, the party must show “good cause” and “act with due diligence in attempting to amend” the pleadings. *Hempel v. Creek House Tr.*, 743 N.W.2d 305, 313 (Minn. App. 2007) (quotation omitted). “The decision whether to permit a party to amend pleadings rests within the discretion of the [district] court and will not be reversed in the absence of clear abuse of such discretion.” *Warrick v. Giron*, 290 N.W.2d 166, 169 (Minn. 1980).

The district court stated that it was not aware of any attempts that Walters made to formally amend the complaint, and Walters offered no excuse for failing to amend the complaint. The district court concluded that if Walters wanted the allegations in the complaint, he had the opportunity to amend the pleadings, but he did not do so.

The district court did not abuse its discretion by dismissing the allegations that did not appear in the complaint. As the district court stated, Walters never requested leave to amend the complaint and only mentioned adding the allegations one day before the discovery deadline, which the DOC claims would have prejudiced it by depriving an opportunity to complete discovery.

Affirmed.