

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

Civil Action No. 3:17-cv-0011

LONNIE BILLARD,

Plaintiff,

v.

**CHARLOTTE CATHOLIC HIGH
SCHOOL, MECKLENBURG AREA
CATHOLIC SCHOOLS, and ROMAN
CATHOLIC DIOCESE OF CHARLOTTE,**

Defendants.

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”), Defendants Charlotte Catholic High School, Mecklenburg Area Catholic Schools, and the Roman Catholic Diocese of Charlotte (collectively “Defendants”) hereby move for summary judgment. As more particularly described in the Memorandum in Support of Defendants’ Motion for Summary Judgment filed contemporaneously with this Motion and incorporated herein by reference pursuant to Fed. R. Civ. P. 10(c), there is no genuine dispute as to any material fact in this matter, and Plaintiff Lonnie Billard’s claim for sex discrimination in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”) fails as a matter of law on multiple grounds. First, Title VII’s exemptions for religious organizations apply because Defendants’ decision to release Billard from his employment was based on religious preference—specifically, the fundamental moral teachings of the Catholic Church, which

recognizes marriage only between a man and a woman. *See* 42 U.S.C. §§2000e-1(a) & (e)(2); *see e.g., Little v. Wuerl*, 929 F.2d 944 (3rd Cir. 1991).

Second, Billard admitted that his claim is one for sexual orientation discrimination, which is not actionable under Title VII. *Hopkins v. Baltimore Gas & Elec. Co.*, 77 F.3d 745 (4th Cir. 1996). In any case, Billard cannot show that his sexual orientation (even if it was protected by Title VII) *or* sex was a motivating factor in Defendants' decision, because the undisputed evidence demonstrates that Defendants released Billard because of his conduct and advocacy in favor of same-sex marriage in violation of the Catholic Church's fundamental beliefs and moral teaching *and* that Defendants would have taken the same action against a female or heterosexual employee. *Hill v. Lockheed Martin Logs., Mgmt.*, 354 F.3d 277 (4th Cir. 2004).

Third, Billard's claim is barred by the First Amendment, because enforcing Title VII would violate Defendants' rights to associational freedom and church autonomy. *Boy Scouts of America v. Dale*, 530 U.S. 640, 647 (2000); *Bryce v. Episcopal Church in the Diocese of Colorado* 289 F.3d 648, 657 (10th Cir. 2002). Finally, Billard's claim is barred by the Religious Freedom Restoration Act (RFRA) because granting the relief requested by Billard in this case would substantially burden Defendants' exercise of religion and there is no record evidence that would satisfy RFRA's least-restrictive-means requirements. *Burwell v. Hobby Lobby Stores, Inc.*, 134 S.Ct. 2751, 2760 (2014); *EEOC v. R.G. & G.R. Harris Funeral Homes, Inc.*, 201 F. Supp. 3d 837, 855 (E.D. Mich. 2016). Accordingly, Defendants are entitled to summary judgment on Billard's claim.

For these reasons and as set forth more fully in Defendants' Memorandum of Law, Defendants request the Court enter an Order granting their Motion for Summary Judgment, dismissing Billard's Complaint in its entirety and with prejudice, awarding Defendants their

costs incurred in this action, including their reasonable attorneys' fees, and granting such further relief as the Court deems just and proper.

This the 21st day of September 2017.

Respectfully submitted,

/s/ Meredith A. Pinson

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the court using the CM/ECF system, which will send electronic notice to counsel for Plaintiff at the addresses as follows:

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This the 21st day of September 2017.

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