

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-1838

MARQUIS ROBINSON,
Appellant

v.

SELF HELP MOVEMENT; ROBERT N. DELLAVELLA; JOHN COOPER;
COLLEEN BRUBAKER; KELLY KORZEN

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(E.D. Pa. Civ. No. 2:24-cv-06782)
District Judge: Honorable Chad F. Kenney

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
on October 23, 2026

Before: KRAUSE, BIBAS, and NYGAARD, *Circuit Judges*
(Opinion filed: October 28, 2026)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Marquis Robinson, proceeding pro se, appeals from the District Court's order denying his motion for summary judgment and granting defendant-appellees' motion for summary judgment on his race- and sex-based employment discrimination claims. We will affirm the District Court's judgment.

I.

Robinson was employed as a part-time Resident Monitor ("RM") for defendant Self Help Movement ("SHM") during a stay in its halfway house and transitional living facility. As an RM, Robinson was assigned to the first floor, monitoring the front entrance and conducting the required searches and breathalyzers on clients and residents. SHM counted on Robinson to secure the front admissions area, as he had previously worked as a bodyguard and a bouncer and he was 6'4" tall and over 290 pounds. Although Robinson expressed interest in being reassigned to a third-floor RM position with the same job title, responsibilities and pay, SHM did not reassign him because he was needed at the front admissions area.

Robinson worked with defendant Colleen Brubaker, SHM's Clinical Director. Brubaker suffered from back problems and pain while working at SHM. Brubaker is less than 5'0" tall. Because of their relative sizes, when her back was stiff or sore, Brubaker would ask Robinson to crack her back by lifting her up from behind while she crossed her arms across her chest. Robinson believed that Brubaker's requests were sexual in nature because of her relationship with a different SHM client. In total, Brubaker asked Robinson to crack her back seven or eight times.

On one occasion, a client Robinson was searching called him and his mother a racial slur. Robinson reported the incident, a disciplinary meeting took place, and the client was permitted to remain at SHM with a behavioral contract. However, the client was not given any restrictions and was moved to the floor where Robinson lived so that Robinson had to see him every day.

During Robinson's employment with SHM, Robinson engaged in paid security work outside of SHM on defendant John Cooper's request.

Robinson also trained for and received his CDL license, after which he tendered his letter of resignation from SHM "to venture out and explore a different career path." ECF No. 65-11 at 3.

Shortly after his resignation, Robinson filed a Charge of Discrimination with the Equal Opportunity Employment Commission ("EEOC") and the Pennsylvania Human Relations Commission, alleging that he was discriminated against based on race and sex when he was passed over for the promotion to the third floor and when Brubaker asked him to crack her back and that, as a result, he was constructively discharged. The EEOC declined to proceed with an investigation and issued a Right to Sue Letter on November 24, 2024.

Robinson filed a complaint in the District Court against SHM, Brubaker, Cooper, and other individual defendants, alleging failure to promote, failure to stop harassment, unequal terms and conditions of employment, retaliation, discrimination, and bullying based on race, color, gender/sex, and age.¹ Robinson and defendants filed cross motions for

¹ Because Robinson conceded that he inadvertently checked a box for the Age Discrimination and Employment Act and did not mean to allege age discrimination, the District Court

summary judgment. The District Court issued a memorandum opinion, construing Robinson’s complaint as alleging claims under Title VII of the Civil Rights Act of 1964 (“Title VII”), and the Pennsylvania Human Relations Act (“PHRA”) for hostile work environment sexual harassment, disparate treatment on the basis of race, and retaliation, and granting summary judgment for defendants. Robinson timely appealed.

II.

We have jurisdiction under 28 U.S.C. § 1291. “We review the District Court’s grant of summary judgment de novo.” *Jutrowski v. Twp. of Riverdale*, 904 F.3d 280, 288 (3d Cir. 2018). Summary judgment is proper when, viewing the evidence in the light most favorable to the nonmoving party and drawing all inferences in favor of that party, there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a); *Kaucher v. Cnty. of Bucks*, 455 F.3d 418, 422–23 (3d Cir. 2006). We construe Robinson’s pro se filings liberally. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam).

On appeal, Robinson primarily challenges the District Court’s grant of summary judgment on his hostile work environment sexual harassment claim, arguing that the court failed to view the evidence in the light most favorable to him. Construing his filings liberally, he also appears to challenge the District Court’s decision on his claim that he was

dismissed this claim.

subject to discrimination and bullying based on race when defendant Cooper asked him to do additional work outside of SHM and when he was called a racial slur.²

To establish a hostile work environment claim under Title VII and the PHRA,³ a plaintiff must prove: (1) he suffered intentional discrimination because of his sex; (2) the discrimination was severe or pervasive; (3) the discrimination detrimentally affected him; (4) the discrimination would have detrimentally affected a similarly situated reasonable person; and (5) a basis for employer liability. *Weston v. Penn.*, 251 F.3d 420, 426 (3d Cir. 2001), *overruled in part on other grounds by Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53 (2006); *see also Jensen v. Potter*, 435 F.3d 444, 449 (3d Cir. 2006), *overruled in part on other grounds by Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53 (2006). Actionable harassment “must be so severe or pervasive that it alters the conditions of the victim’s employment and creates an abusive environment.” *Weston*, 251 F.3d at 426. In determining whether a reasonable person would find the employment environment hostile or abusive, we look at the totality of the circumstances, including “the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or

² Robinson also alleges in his various filings in this Court that SHM made improper payments “under the table,” other SHM employees sold goods out of SHM, SHM did not recognize him for stopping a client from bringing in a loaded gun, and Appellees’ lawyer lied to the district court. Robinson did not develop these arguments on appeal and has therefore forfeited them. *See In re Wettach*, 811 F.3d 99, 115 (3d Cir. 2016). Moreover, to the extent these factual allegations were not raised before the District Court, we do not consider them for the first time on appeal. *See Barna v. Bd. of Sch. Dirs. of Panther Valley Sch. Dist.*, 877 F.3d 136, 146 (3d Cir. 2017).

³ We examine Title VII and PHRA claims under the same analytical framework. *See Qin v. Vertex, Inc.*, 100 F.4th 458, 470 (3d Cir. 2024).

a mere offensive utterance; whether it unreasonably interferes with an employee's work performance.” *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 23 (1993).

We agree with the District Court that, viewing the evidence in the light most favorable to Robinson, Brubaker's requests for Robinson to crack her back do not constitute the kind of severe and pervasive sexual harassment that is actionable under Title VII and the PHRA. The isolated requests were not overtly sexual, physically threatening, or coercive, and did not involve Brubaker propositioning or touching Robinson. *See Nitkin v. Main Line Health*, 67 F.4th 565, 571–72 (3d Cir. 2023) (collecting cases). In fact, Robinson, at 6'4" and over 290 pounds, primarily administered the touching as he lifted Brubaker, at less than 5'0" tall, off the ground with her arms crossed over her chest. Although Brubaker's requests may have made Robinson uncomfortable, “Title VII is not a general civility code for the American workplace.”⁴ *Jensen*, 435 F.3d at 449 (internal quotation marks omitted).

We also agree with the District Court that Robinson failed to exhaust his administrative remedies for his race-based discrimination and bullying claims arising from Cooper's offers of outside work and a client's racial slur. In his EEOC charge, Robinson's only allegation of race-based discrimination was that a Caucasian man with less experience was promoted over him to a third-floor RM position. An EEOC investigation into Robinson's failure-to-promote claim could not reasonably be expected to encompass his new

⁴ Unlike the District Court, we are not convinced that Brubaker was undisputedly only Robinson's coworker, as Robinson stated in his deposition that he reported to Brubaker. However, because we conclude that there was no actionable harassment, we need not reach the employer liability element of the hostile work environment claim.

allegations that defendant Cooper offered him work outside SHM and that a different SHM client used a racial slur. *See Mandel v. M & Q Packaging Corp.*, 706 F.3d 157, 163–64 (3d Cir. 2013) (holding that plaintiff failed to exhaust her administrative remedies where the factual statement in support of her EEOC charge did not encompass the newly raised claim). They therefore were not fairly within the scope of his EEOC charge and were not exhausted.

For these reasons, we will affirm the District Court’s judgment.⁵

⁵ Robinson’s motion for leave to file supplemental documents is denied as, subject to exceptional circumstances that are not present here, our review is limited to the record that was before the District Court. *See Acumed LLC v. Advanced Surgical Servs., Inc.*, 561 F.3d 199, 226 (3d Cir. 2009).