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**STATE OF MINNESOTA
IN COURT OF APPEALS
A14-1197**

John H. Saulsberry,
Appellant,

vs.

Minneapolis Public Schools,
Respondent.

**Filed February 17, 2015
Affirmed
Ross, Judge**

Hennepin County District Court
File No. 27-CV-13-15119

John H. Saulsberry, Minneapolis, Minnesota (pro se appellant)

Jeffrey A. Hassan, Jeffrey A. Hassan, PLC, Brooklyn Park, Minnesota (for respondent)

Considered and decided by Ross, Presiding Judge; Peterson, Judge; and Smith,
Judge.

UNPUBLISHED OPINION

ROSS, Judge

African-American John Saulsberry claims that Minneapolis Public Schools discriminated against him based on his race and age when it excluded him from employment-candidate pools for school principal positions. The district court granted the school district's summary judgment motion, reasoning that Saulsberry had not provided

any evidence that the district hired anyone who was younger than he was or who was not African-American. Because we agree that Saulsberry failed to present evidence to support an essential element of his prima facie discrimination claims, we affirm.

FACTS

In 2007 Minneapolis Public Schools declined John Saulsberry's applications for admission into candidate pools to fill positions as assistant principal and "intern" assistant principal. Saulsberry is an African-American man and was 54 years old. Saulsberry filed a complaint with the Minneapolis Department of Civil Rights. He alleged that the district discriminated against him based on his race and age, violating a Minneapolis ordinance. The department rejected the claim.

In 2013, Saulsberry sued the school district in district court, alleging discrimination based on race and age under the city ordinance. The school district moved for summary judgment. Saulsberry identified three individuals whom the district allegedly hired as principal or assistant principal. The district submitted an affidavit stating that all three identified individuals are African-American. Two of them were hired many years ago, and the third has never been hired as a principal or an assistant principal or apparently accepted to either of the candidate pools that Saulsberry is contesting. The district court granted the district's motion on the ground that Saulsberry failed to present a prima facie case of discrimination because he offered no evidence that the district included anyone who was younger than Saulsberry or of a different ethnicity in its hiring pools. He also offered no proof that the district included anyone with his qualifications.

Saulsberry appeals.

DECISION

We review a challenged summary judgment decision de novo, examining the record to determine whether there are genuine issues of material fact and whether the district court made legal errors. *Dahlin v. Kroening*, 796 N.W.2d 503, 504–05 (Minn. 2011). We consider the pleadings, affidavits, depositions, answers to interrogatories, and admissions, *see* Minn. R. Civ. P. 56.03, and we view this evidence in the light most favorable to the party opposing the summary judgment motion. *STAR Centers, Inc. v. Faegre & Benson, LLP*, 644 N.W.2d 72, 76–77 (Minn. 2002). The nonmoving party with the burden of proof must present specific facts to support his allegations. *Bebo v. Delander*, 632 N.W.2d 732, 737 (Minn. App. 2001), *review denied* (Minn. Oct. 16, 2001). Failing to support an essential element of his claim with evidence mandates summary judgment against him. *Id.*

We analyze Saulsberry’s discrimination claim under the Minneapolis ordinance by applying the same principles that frame claims under the Minnesota Human Rights Act (MHRA), Minnesota Statutes sections 363A.01 through .43 (2012). *Cannon v. Minneapolis Police Dep’t*, 783 N.W.2d 182, 189 (Minn. App. 2010). We therefore examine discrimination claims under the burden-shifting framework established by *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S. Ct. 1817 (1973). *Cannon*, 783 N.W.2d at 189. To avoid summary judgment, Saulsberry must first present a prima facie case of discrimination using direct or circumstantial evidence. *See Sigurdson v. Isanti Cnty.*, 386 N.W.2d 715, 720 (Minn. 1986). Saulsberry does not offer any direct evidence of a discriminatory motive, so he must show a discriminatory motive circumstantially. He

must provide evidence that (1) he belongs to a protected class, (2) he applied and was qualified for the position, (3) he was rejected, and (4) after his rejection, the position was given to someone outside his protected class with his qualifications. *Sigurdson v. Carl Bolander & Sons, Co.*, 532 N.W.2d 225, 228 (Minn. 1995); *see also Hoover v. Norwest Private Mortgage Banking*, 632 N.W.2d 534, 542 (Minn. 2001). The only disputed elements here are whether Saulsberry was qualified for admission into the candidate pools and whether individuals outside his protected classes were admitted.

Saulsberry presented no evidence that the school district accepted into the pools any applicants who lacked a standard K-12 teaching license (an essential qualification Saulsberry lacks) or applicants younger than Saulsberry or of a different race. He therefore failed to meet his burden of proof and summary judgment against him is mandatory.

Affirmed.