JS-6

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

JEFF VAUGHN,

Plaintiff,

v.

CBS BROADCASTING, INC. PARAMOUNT GLOBAL, and WENDY MCMAHON,

Defendants.

Case No. 2:24-cv-05570-HDV-RAO

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT [59]

I. INTRODUCTION

Plaintiff Jeff Vaughn alleges he was terminated from his role as a news anchor for KCBS-TV and KCAL-TV in Los Angeles because he is white—a violation of the prohibition on race discrimination under Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981. Defendants CBS Broadcasting, Inc., Paramount Global (collectively, "CBS"), and Wendy McMahon claim he was terminated simply for poor job performance.

Before the Court is Defendants' Motion for Summary Judgment ("Motion") [Dkt. 59]. For the reasons discussed below, the Court concludes that there is no "there" there to Plaintiff's claims. Specifically, the Court finds that there is no genuine dispute of material fact showing that race was a motivating factor in CBS's decision to terminate Vaughn, nor that Defendants' legitimate, non-discriminatory reason for the termination (poor performance) was pretextual.

The Motion is granted.

II. BACKGROUND

KCBS (channel 2) and KCAL (channel 9) (together, "KCBS/KCAL") are local CBS television news stations in Los Angeles. UF[1] 1. From November 2015 until November 2023, Plaintiff Jeff Vaughn served as an evening news anchor at both stations. UF 3. Vaughn identifies as an "older, white, heterosexual male." UF 2; Complaint ¶ 7 [Dkt. 1]. He is "an Emmy Award-winning news anchor with over 30 years of experience in broadcast journalism." Declaration of Jeff Vaughn ("Vaughn Decl.") ¶ 2 [Dkt. 59-9]. Defendants CBS Broadcasting, Inc. and Paramount Global (CBS's parent company) owned and operated the station during this period. Motion at 1. Defendant Wendy McMahon became President and Co-Head of CBS News and Stations in May 2021. UF 5.

CBS emphasized the operationalized values of what McMahon called the "Three Cs" of Content, Community, and Culture. UF 6. "Content" meant best-in-class local news, "Community" meant authentic connections with the communities the stations serve, and "Culture" meant making

[1] "UF" refers to the Undisputed Facts listed in the Joint Statement of Uncontroverted Facts and Genuine Disputes and Conclusions of Law Regarding Defendants' Motion for Summary Judgment [Dkt. 59-1].

CBS stations the best places to work. UF 6. Anchors were expected to be compelling and truth-based storytellers who came "off the desk" to engage in community outreach and reporting. UF 9–10.

CBS had a "slate policy" that implemented diversity requirements in the "slate" of candidates interviewed by the hiring manager. Ex. [2] 96 [Dkt. 59-106]; Ex. 97 [Dkt. 59-107]. The policy required that the group of candidates interviewed "should include at least one woman and one person of color." Ex. 96. Paramount also had diversity-related "hiring, promotion and attrition targets" that targeted increased hiring and promotion and decreased attrition for female and "ethnically diverse" SVP and VP roles. Ex. 98 [Dkt. 59-108]. The presentation describing Paramount's SVP and VP targets states that while "[w]e can require that members of certain protected categories be considered for a role," "[h]iring decisions cannot be based on protected category such as gender, race, or ethnicity even when the intention is to increase representation." *Id*.

CBS claims its dissatisfaction with Vaughn's performance dated back to at least 2018. *See* UF 12. In the fall of 2018, station management noted that Vaughn had "been filling in [for CBS evening shows] for the past few months, but for whatever reason, he's not resonating with our audience." Ex. 23 [Dkt. 59-33]. In a 2019 mid-year review presentation, CBS identified the lack of a "strong male anchor" as a weakness and included finding one as a strategic goal. Ex. 24 [Dkt. 59-34]. CBS reported the same need for improvement again in 2020, stating as part of their 2021 strategic initiatives that they wanted to "[f]ind a strong male anchor for CBS2 Evening Newscasts" Ex. 28 [Dkt. 59-38]. At the same time, Vaughn and the news team he was a part of were ranked #1 in PrimeTime with viewership amongst adults ages 25–54 up 14% across the three-hour evening slot. Ex. 122.

In November 2020, Jennifer Pierce, the station's Assistant News Director, reviewed the station's twelve anchors and assigned Vaughn the second-lowest numerical score. Ex. 29 [Dkt. 59-39]. Her written assessment noted that Vaughn's "anchoring has not really improved," that "[h]is look is good, but he has a hard time getting through scripts without flubbing," that his delivery was

[2] "Ex." refers to the exhibits included in the parties' Joint Appendix of Evidence in Support of and in Opposition to Defendants' Motion for Summary Judgment. [Dkt. 59-2].

"distracting" due to wrong-word emphasis, and that he "can also come off kind of stiff on air." *Id*. She also noted that Vaughn "will always say he is there to help any way he can," but "when you ask him to work a weekend at the last minute he often says he can't." *Id*.

In the fall of 2021, CBS commissioned an independent research firm to conduct market research on its on-air talent, in part because, according to McMahon, "Nielsen ratings cannot be relied on to make any decisions about your business, . . . the panels and the methodology is flawed." UF 16; Ex. 6 at 56:25–57:3 [Dkt. 59-16]; Ex. 34 [Dkt. 59-44]. The results showed Vaughn ranked last among KCAL anchors in viewer recognition—with a recognition rate of 38%, which was 10% lower than the next-lowest KCAL anchor—and 18th out of 20 among all anchors evaluated. Ex. 34 at 6. 35% of respondents also rated him as "Average" or better, compared to the next lowest KCAL anchor at 43%. Ex. 34 at 12; *see also* Ex. 6 at 85:5–9 ("[Vaughn] just wasn't connecting with the audiences and he had been given years of opportunity to do so and he just hadn't broken through."); *id*. at 85:20–22 ("The research suggested that no one knew who [Vaughn] was and no one particularly liked it when they saw him."); *id*. at 86:17–22 ("[Vaughn's] recall was incredibly low and his likeability scores were Meh. . . . Not great.").

In May 2022, CBS executive Laurie Orlando visited Los Angeles to assess on-air talent. Ex. 50 [Dkt. 59-60]. Orlando observed that Vaughn and two others were "[w]eak links" lacking "depth and authenticity." *Id*. She also noted that they needed to "better reflect the 49% Hispanic audience" and needed "more enterprise reporting and community focus." *Id*. She recommended "Giselle Fernandez and Mike Marza or Fred Shropshire" for two of the evening slots. *Id*.[3] In meeting notes from the visit, Orlando also compared Vaughn to "Ron Burgundy," Will Ferrell's character in the movie *Anchorman*. Ex. 51 [Dkt. 59-61].[4] She again noted that CBS needed "more Hispanics on the

[3] CBS "understood [Marza] to be a white man." *See, e.g.*, Declaration of Joel Vilmenay ("Vilmenay Decl.") ¶ 12 [Dkt. 59-3].

[4] Orlando explained her "Ron Burgundy" comment as referring to Vaughn's lack of authenticity: "[T]here was a time that being a talking head was acceptable. It is no longer acceptable. There needs to be greater gravitas, greater understanding, grasp of the news and how we relate to our audience. . . [H]e did not fit the bill." Ex. 4 at 81:20–83:2 [Dkt. 59-14]. Vaughn believes that the comment "was an obvious reference to [CBS's] view of me, as the white man standing in the way of their goal for increased diversity" because "[o]ne of the central plot themes of the film 'Anchorman'

team," and listed Mike Marza and Giselle Fernandez as potential anchors. *Id*. During these meetings, Mike Dello Stritto, Vice President and News Director of KCBS/KCAL, conveyed his "concerns about Mr. Vaughn's performance" to Orlando. Declaration of Mike Dello Stritto ("Dello Stritto Decl.") ¶ 13 [Dkt. 59-4]. Around the same time, Vaughn emailed Dello Stritto and Joel Vilmenay, President and General Manager of KCBS/KCAL, a PDF showing his involvement in only five community events between 2017 and 2022. UF 25. Dello Stritto believed this PDF "proved the point" about his "concerns regarding Mr. Vaughn's lack of engagement with the Los Angeles community." Dello Stritto Decl. ¶ 10.

CBS claims that Vaughn's performance never improved. *See* UF 13. Throughout this period, CBS also received negative feedback from viewers regarding Vaughn's "distracting" "inability to read the teleprompter," Ex. 25 [Dkt. 59-35], and "mistakes in pronunciation," Ex. 22 [Dkt. 59-32]. *See also* Ex. 73 [Dkt. 59-83] (viewer feedback that Vaughn "can['t] read a teleprompter," and has frequent "awkward pauses").

In November 2021, Vilmenay proposed—and McMahon approved—a one-year contract extension for Vaughn, though Vilmenay made clear to Vaughn's agent that the station was "unsure" whether it would continue with Vaughn, and agreed to "revisit Jeff's status" in six months. UF 17–18. Vilmenay noted internally that Vaughn's "research and performance are not ideal," but "other priorities" and the lack of a successor compelled CBS to offer the extension. Ex. 34. Vilmenay reiterated the "desire to see improvement in [Vaughn's] anchoring." *Id*.

On April 27, 2022, CBS informed Vaughn's agent that it was unlikely to renew his contract, and on May 23, 2022, Vilmenay and Dello Stritto—with signoff from Orlando, Mitchell, and McMahon—confirmed that Vaughn's contract would not be renewed upon its expiration in November 2022. UF 26. CBS twice granted Vaughn one-month contract extensions at his own

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is that the character Ron Burgundy stands in the way of increased diversity in the fictional San Diego Newsroom." Vaughn Decl. ¶ 22. IMDB describes the plot of *Anchorman* as follows: "In the 1970s, an anchorman's stint as San Diego's top-rated newsreader is challenged when an ambitious newswoman becomes his co-anchor." *Anchorman: The Legend of Ron Burgundy*, IMDB, https://www.imdb.com/title/tt0357413/?ref_=ttfc_ov_bk (last visited Mar. 21, 2026). The anchorman is portrayed by Will Ferrell, a white man, and the newswoman is portrayed by Christina Applegate, a white woman. *Id*.

request, once through the end of 2022, and thereafter until January 31, 2023. UF 27. CBS then extended Vaughn's contract through January 31, 2024, containing, for the first time, a term that allowed either party to terminate on sixty days' notice. UF 28.

Meanwhile, CBS was undertaking a search for a replacement evening anchor, evaluating several candidates—men and women of varied racial and ethnic backgrounds—between April 2022 and August 2023. UF 31–35; Ex. 41 [Dkt. 59-51]; Ex. 4 at 85:3–17. In June 2022, CBS extended an offer to Mike Marza, a white male anchor in New York, who declined. UF 32. In 2023, CBS similarly pursued Alex Maragos, another white male anchor, who also ultimately withdrew from consideration. UF 34. CBS considered at least two other candidates, Marc Istook, a white man, and Eugene Ramirez, a Latino man. UF 35. A CBS talent associate noted that Istook "doesn't help the diversity at the station," but that he "could see him taking Vaughn's role." Ex. 80 [Dkt. 59-90].

In July 2023, CBS identified Chauncy Glover, an Emmy-winning evening news anchor in Houston, who CBS identified as "a fabulous anchor/reporter . . . and an even better person" who would be "a breath of fresh air in the evening." Ex. 84 [Dkt. 59-94]; *see also* UF 36. In presenting the idea of Glover as a replacement anchor, McMahon emailed Orlando, identifying Glover as a "Male anchor…AA…KTRK" and asking Orlando if she had heard of him. Ex. 101 [Dkt. 59-111]. "AA" stands for "African American," and McMahon claimed she wrote this to help Orlando identify him. Ex. 6 at 95:21–25, 96:1–10. Orlando described Glover as "the real deal," "exemplif[ying] and embod[ying] everything we stand for and everywhere we hope to go in the coming years." Ex. 85 [Dkt. 59-95]. She elaborated that Glover "was a true community journalist," "jumped off the screen from the desk," and "had so much energy and dynamic ability and was just authentic beyond words." Ex. 4 at 90:9–92:6. Vilmenay highlighted Glover's "love of storytelling, background as a strong reporter and willingness to come off the desk[.]" Ex. 86 [Dkt. 59-96]. McMahon described him as someone who "lit up the screen" and whose "research was always off the charts." Ex. 6 at 94:25–95:20.

CBS hired Glover on August 30, 2023. UF 37. Despite Vaughn's contract extensions, "the Station's intentions regarding its desire not to move forward with Vaughn did not change at any point after May 2022," and on the same day as hiring Glover, CBS notified Vaughn that his contract

was being terminated pursuant to the 60-day notice provision, with his last day on air being September 22, 2023, and his last day on payroll being November 22, 2023. UF 29. Upon his departure, KCAL aired a statement on air that said: "Friday was Jeff Vaughn's last newscast with KCAL news. Now, he didn't want to make a big fuss about leaving, but we wanted you to know. He has been a vital part of the KCAL news team for 8 years, and we have taken great pride working with Jeff to share your stories[.]" Complaint ¶ 65.

Vaughn contends he was fired because he is white and replaced with Glover, a black man. Ex. 1 at 193:20–23 [Dkt. 59-11]. He contends that his replacement by Glover, together with CBS's public diversity, equity, and inclusion initiatives and the Ron Burgundy comparison, raise a triable issue of fact that race was at least a motivating factor in CBS's decision to terminate him. When asked at his deposition whether he believed he was "terminated for any reason besides [his] skin color," Vaughn answered "No." Ex. 1 at 195:7–9. Dello Stritto told Vaughn that his termination was "not just about the ratings" because "[r]atings are just . . . one part of the more holistic picture when we're looking at any sort of performance of anybody, especially . . . on-air folks." Ex. 3 at 39:16–18, 47:8–18.[5]

Prior to his termination, Vaughn also alleges he was excluded from promotional activities like CBS News' 20th-anniversary 9/11 special coverage, a children's hospital charity event, Super Bowl field-anchor events, and 2022 billboard and television ads. Vaughn Decl. ¶¶ 8–13. CBS has stated that "[i]t is generally not possible for all anchors or reporters to attend any given event, including because" some talent will be needed "in the newsroom to cover regularly scheduled broadcasts." Dello Stritto Decl. ¶¶ 3–4. CBS also explained that Vaughn was not included in the 2022 marketing materials because "[t]he decision to terminate [Vaughn] would have had us in position to not want to market somebody who would not be a part of the news team for much longer." Ex. 3 at 78:21–79:8 [Dkt. 59-13].

[5] Dello Stritto elaborated on Vaughn's ratings, stating that at "[t]he 5:00 p.m. news [Vaughn] was number four, at 8:00 p.m., it was number one, but there was no competition, so you're number one of one, we were number four at 5:00, three and four." Ex. 3 at 39:19–40:3.

III. LEGAL STANDARD

Summary judgment should be granted "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a); *accord Wash. Mut. Inc. v. United States*, 636 F.3d 1207, 1216 (9th Cir. 2011). Material facts are those that may affect the outcome of the case. *Nat'l Ass'n of Optometrists & Opticians v. Harris*, 682 F.3d 1144, 1147 (9th Cir. 2012) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). A dispute is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson*, 477 U.S. at 248.

The moving party bears the initial burden of establishing the absence of a genuine dispute of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). To carry its burden of production, the moving party must either: (1) produce evidence negating an essential element of the nonmoving party's claim or defense; or (2) show that there is an absence of evidence to support the nonmoving party's case. *Nissan Fire & Marine Ins. Co. v. Fritz Cos.*, 210 F.3d 1099, 1102 (9th Cir. 2000).

Once the moving party has met its initial burden, Rule 56(c) requires the nonmoving party to "go beyond the pleadings and by [his or] her own affidavits, or by the 'depositions, answers to interrogatories, and admissions on file,' designate 'specific facts showing that there is a genuine issue for trial.'" *Celotex Corp.*, 477 U.S. at 324 (quoting Fed. R. Civ. P. 56(c), (e)); *see also Norse v. City of Santa Cruz*, 629 F.3d 966, 973 (9th Cir. 2010) ("Rule 56 requires the parties to set out facts they will be able to prove at trial."). "In judging evidence at the summary judgment stage, the court does not make credibility determinations or weigh conflicting evidence." *Soremekun v. Thrifty Payless, Inc.*, 509 F.3d 978, 984 (9th Cir. 2007). "Rather, it draws all inferences in the light most favorable to the nonmoving party." *Id.*

IV. DISCUSSION

A. Applicable Framework

Defendants' opening brief argues that Plaintiff's claims fail as a matter of law under the *McDonnell Douglas* burden-shifting framework used to evaluate Title VII and Section 1981 race discrimination claims. Motion at 9–18. Plaintiff, however, avers that "this is a mixed-motive case" that "does not involve *McDonell Douglas* burden shifting." Opposition at 2.

Both frameworks may be applied to Plaintiff's claim under Title VII and Section 1981. *Surrell v. Cal. Water Serv. Co*., 518 F.3d 1097, 1103 (9th Cir. 2008) ("Typically, we apply the familiar *McDonnell Douglas* burden shifting framework for Title VII and § 1981 claims. . . . A plaintiff may alternatively proceed by simply producing direct or circumstantial evidence demonstrating that a discriminatory reason more likely than not motivated the employer.") (citation omitted). Under either theory, Plaintiff's claims do not survive summary judgment.[6]

B. *McDonnell Douglas* Analysis

In order to prove a claim for race discrimination under the *McDonnell Douglas* burden-shifting framework, Plaintiff must establish that he suffered an adverse employment action that was motivated by intentional discriminatory animus. *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973); *Guz v. Bechtel National, Inc*., 24 Cal. 4th 317, 353–58 (2000). First, Plaintiff must establish a prima facie case of discrimination. *See McDonnell Douglas*, 411 U.S. at 802; *Guz*, 24 Cal. 4th at 351–54. If Plaintiff succeeds in establishing a prima facie case, the burden of production then shifts to Defendants to articulate a legitimate, nondiscriminatory reason for terminating Plaintiff's employment. *See McDonnell Douglas,* 411 U.S. at 802. If Defendants do so, Plaintiff must demonstrate that Defendants' articulated reason is a pretext for unlawful discrimination by "either directly persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence." *Chuang v. Univ. of Cal. Davis,* 225 F.3d 1115, 1124 (9th Cir. 2000) (quoting *Texas Dep't of Cmty. Affairs v. Burdine,* 450 U.S. 248, 256 (1981)). Plaintiff's evidence must be both specific and substantial to overcome the legitimate reasons set forth by the employer. *Aragon v. Republic Silver State Disposal, Inc.,* 292 F.3d 654, 659 (9th Cir. 2002).

Because Defendants concede for purposes of their Motion that Plaintiff can establish a prima

[6] Defendants also raise additional arguments supporting summary judgment: (1) Plaintiff's Section 1981 claim fails for lack of but-for causation, (2) there is no individual liability for Plaintiff McMahon under Section 1981, and (3) Plaintiff's claims are barred under the First Amendment. Motion at 17–25. Because the Court finds that Plaintiff's claims fail under either a *McDonnell Douglas* or mixed-motive framework, it need not reach the merits of Defendants' supplementary or alternative arguments.

facie case at this stage, the Court only addresses the reason for termination and pretext.

1. Legitimate, Non-Discriminatory Reason

Defendants maintain that "CBS terminated Vaughn because of his poor performance as an anchor, including his failure to connect with viewers in the Los Angeles community." Motion at 10. The record provides ample undisputed evidence establishing Defendants have met their burden on this point. This includes:

- In the fall of 2018, station management noted that Vaughn had "been filling in [for CBS evening shows] for the past few months, but for whatever reason, he's not resonating with our audience." Ex. 23.
- In a 2019 mid-year review presentation, CBS identified the lack of a "strong male anchor" as a weakness and included finding one as a strategic goal. Ex. 24. CBS reported the same need for improvement again in 2020, stating as part of their 2021 strategic initiatives that they wanted to "[f]ind a strong male anchor for CBS2 Evening Newscasts." Ex. 28.
- In November 2020, Jennifer Pierce reviewed the station's twelve anchors and assigned Vaughn the second-lowest numerical score. Ex. 29. Her written assessment noted that Vaughn's "anchoring has not really improved," that "[h]is look is good, but he has a hard time getting through scripts without flubbing," that his delivery was "distracting" due to wrong-word emphasis, and that he "can also come off kind of stiff on air." *Id*.
- In the fall of 2021, the results of CBS-commissioned market research showed Vaughn ranked last among KCAL anchors in viewer recognition—with a recognition rate of 38%, which was 10% lower than the next-lowest KCAL anchor—and 18th out of 20 among all anchors evaluated. Ex. 34 at 6. 35% of respondents also rated him as "Average" or better, compared to the next lowest KCAL anchor at 43%. *Id*. at 12.
- In May 2022, Laurie Orlando observed that Vaughn and two other anchors were "[w]eak links" lacking "depth and authenticity." Ex. 50.

Poor job performance is a paradigmatic example of a legitimate, nondiscriminatory reason for termination. *See Aragon v. Republic Silver State Disposal, Inc.*, 292 F.3d 654, 661 (9th Cir.

2002); *Liu v. DeJoy*, 664 F. Supp. 3d 1030, 1049–50 (C.D. Cal. 2023); *Pinder v. Emp. Dev. Dep't*, 227 F. Supp. 3d 1123, 1141 (E.D. Cal. 2017); *Washington v. Cal. City. Corr. Ctr.*, 871 F. Supp. 2d 1010, 1026 (E.D. Cal. 2012). Defendants have met their burden on this step.

2. Pretext

Where the same decisionmakers responsible for a plaintiff's termination also made employment decisions in the plaintiff's favor shortly before, a "strong inference arises that there was no discriminatory motive." *Bradley v. Harcourt, Brace & Co.*, 104 F.3d 267, 270–71 (9th Cir. 1996); *see also Schechner v. KPIX-TV*, 686 F.3d 1018, 1026–27 (9th Cir. 2012). This same-actor inference is "strong" and requires a plaintiff to "make out [a] strong case of bias to overcome" it. *Coghlan v. Am. Seafoods Co.*, 413 F.3d 1090, 1098 (9th Cir. 2005).

Defendants contend that they are entitled to this same-actor inference, negating any claim of pretext. Motion at 11–12. The Court agrees. The five principal decisionmakers here—Vilmenay, Dello Stritto, Mitchell, Orlando, and McMahon—signed or extended Vaughn's contract four times over approximately 22 months between November 2021 and January 2023, before ultimately giving notice of termination in August 2023. UF 5, 17–19, 27–29. They did so even though the station was under no obligation to offer Vaughn new contracts when it did so. *See Schechner*, 686 F.3d at 1026–27. Plaintiff must make a strong showing to overcome this inference, and he has not done so.

But even if the same-actor inference did not apply, the Court's conclusion would be exactly the same because the record presented, even when viewed in the light most favorable to Vaughn, does not present any genuine dispute of material fact to show that Defendants' stated reason (poor performance) was pretextual. Vaughn points to several pieces of evidence to support his argument: (1) he was replaced by Glover, a black man; (2) he was allegedly excluded from certain station events and advertisements featuring non-white colleagues; (3) CBS had diversity equity and inclusion ("DEI") initiatives and a "diverse slate" interviewing policy; (4) he was told ratings were not the reason for his termination; (5) Orlando compared him to the fictional character Ron Burgundy; (6) CBS allegedly tried to conceal the reason for his departure through its on-air announcement; and (7) two non-white colleagues were not fired despite also receiving some negative feedback. Opposition at 7–8. None of this purported evidence—either individually or

collectively—is enough to create a genuine dispute of fact on the key question of pretext.

The mere fact that Glover is black does not support an inference that Vaughn's race was a motivating factor in his termination given the offers and overtures made to other white men for the very same position before Vaughn's firing. As the Ninth Circuit held in *Coghlan*, it is "virtually impossible" to credit a claim of racial discrimination where the decisionmakers "first offered" the vacant position to individuals outside the alleged favored racial group. 413 F.3d at 1099 ("[W]e cannot see how any reasonable jury could conclude that Andreassen was motivated by pro-Norwegian or anti-American discrimination when his first choice was to replace a Scandinavian master with an American one."). Here, the undisputed evidence shows CBS first offered Vaughn's position to Marza, a white man, and was preparing to finalize an offer to Maragos, another white man, before he withdrew. UF 32, 34. Indeed, Vaughn concedes that if Marza had accepted the offer, he would not be suing. Opposition at 9. Moreover, there is no evidence in the record that Glover's race was a factor in his hiring to replace Vaughn. The only mention of Glover's race is in an email from McMahon to Orlando where McMahon identifies Glover as "AA," meaning African American, which she states was written to help Orlando recognize him. Ex. 101; Ex. 6 at 95:21–25, 96:1–10. No reasonable juror could conclude that a mere reference to a job candidate's race demonstrates that he was hired (or fired) for that reason, particularly here where Glover received much praise unrelated to his race.

Vaughn's claim that he was excluded from community events and advertisements because of his race is simply conjecture. There is no evidence that the station assigned employees to events based on race. UF 39. To the contrary, employees were chosen based on a variety of business-related reasons, and it was not possible for every anchor to attend every event. *Id.*; Dello Stritto Decl. ¶¶ 3–4. Moreover, the 2022 promotional campaign from which Vaughn was excluded featured another white anchor. Supplemental Declaration of Mike Dello Stritto ("Dello Stritto Supp. Decl.") ¶ 8 [Dkt. 59-8]. In short, there is no evidence on this record that Vaughn was excluded from any events because he is white, and the Court cannot infer that the mere exclusion from some events is evidence of race discrimination in and of itself. *See Means v. City & Cnty. of San Francisco, Dep't of Pub. Health*, 749 F. Supp. 2d 998, 1005 (N.D. Cal. 2010) ("With regard to [Plaintiff's] allegations

. . . that she was given more onerous assignments than non-black colleagues, [Plaintiff] fails to make a *prima facie* case of race discrimination" because "[s]he presents no evidence of the circumstances of these events, and thus the Court cannot infer that they relate to [Plaintiff's] race.").

The CBS diversity initiatives and slate policy also fail to support an inference of pretext. The undisputed evidence establishes that Defendants had no numerical goals, mandates, targets, or quotas applicable to the hiring, retention, or promotion of news anchors. *See* UF 42. Paramount's diversity-related "hiring, promotion and attrition targets" applied to SVP and VP roles—but specifically *not* to news anchors. Ex. 98. CBS's "diverse slate" policy applied only to interviewing, not to hiring decisions, and expressly required CBS to select the most qualified candidate. Exs. 96, 97.[7] As the Ninth Circuit held in *Armstrong v. WB Studio Enterprises, Inc.* with regard to Warner Brothers' "Commitment to Diversity and Inclusion" statement, the slate policy here "did not constitute a race-based reason for hiring other candidates because [it] did not contain any specific instructions or directive on whom to hire[.]" 2025 WL 3002614, at *1 (9th Cir. Oct. 27, 2025) (unpublished memorandum disposition), *petition for cert. filed*, (U.S. Mar. 31, 2026) (No. 25-1139). Stated differently, CBS's promotion of diversity in the interview process is insufficient to create a disputed issue of fact showing that Vaughn's termination was a mere pretext for anti-white racial discrimination.

Vaughn's subjective interpretation that Dello Stritto's "not just about the ratings" comment was somehow code for race holds no evidentiary value without at least some other contextual support. Dello Stritto explained that "[r]atings are just . . . one part of the more holistic picture when we're looking at any sort of performance of anybody, especially . . . on-air folks." Ex. 3 at 39:16–18, 47:8–18. And the ratings reflected the entire news team at a particular hour, not just Vaughn. *See id*. at 39:19–40:3. There is no evidence that race—as opposed to the *documented* reasons of community involvement, viewer recognition, prior disciplinary history, and news delivery style—

[7] There is also no evidence that in Vaughn's case CBS failed to comply with the policy's requirements to not base *hiring* decisions on a candidate's race. Orlando's comments that CBS needed to "better reflect the 49% Hispanic audience" and needed "more Hispanics on the team" are immaterial here where Vaughn is white, no job offers were made to Hispanic candidates, and Vaughn was ultimately replaced by a black man.

was a part of assessing the "holistic picture" of an anchor's performance. Vaughn's unsupported interpretation of Dello Stritto's otherwise race-neutral comment is insufficient to raise a genuine dispute of fact at summary judgment. *See Hittle v. City of Stockton, Cal.*, 101 F.4th 1000, 1014 (9th Cir. 2024) ("We cannot infer [religious] discrimination based on factual allegations that are just as much in line with the non-discriminatory explanation we have identified. . . . Where there are obvious alternative explanations for the purportedly unlawful conduct and the purposeful invidious discrimination plaintiff asks us to infer, discrimination is not a plausible conclusion.) (citations omitted); *cf. Frith v. Whole Foods Mkt., Inc.*, 38 F.4th 263, 276 (1st Cir. 2022) (holding that racial discrimination cannot be inferred from Whole Foods enforcing its dress code policy to prohibit employees from wearing Black Lives Matter apparel where an "obvious alternative explanation"—that the company wanted to prohibit display of "controversial" messages—existed).

Orlando's comparison of Vaughn to Ron Burgundy similarly fails. The comparison—explained by Orlando as a reference to her perception of Vaughn's lack of authenticity and talking-head anchoring style, not his race—does not support a finding of racial animus. *See* Ex. 4 at 81:20–83:2. No reasonable juror (or at least no one who has actually seen the movie *Anchorman*) could find that referring to Vaughn as Ron Burgundy was necessarily a reference to his race; Vaughn's logical leap is just not supported by the record here. *See Hittle*, 101 F.4th at 1015 (citing *Coghlan*, 413 F.3d at 1095–96); *Knadler v. Furth*, 253 F. App'x 661, 663 (9th Cir. Nov. 2, 2007) (unreported memorandum disposition) (reference to plaintiff as "Cheese-whiz" "on one occasion, when [plaintiff] was not present," was insufficient to show racial animus where "[plaintiff] has offered no evidence other than his own assertion that this was intended to be, or was understood by others, to be a racial slur"). And even assuming the comment is perceived as pejorative, it is "more akin to 'stray remarks that have been held insufficient to establish discrimination.'" *Hittle*, 101 F.4th at 1015 (citing *Cordova v. State Farm Ins. Cos.*, 124 F.3d 1145, 1149 (9th Cir. 1997) (discussing cases that held comments about not liking grey hair and hiring a "bright, intelligent, knowledgeable young man" were not evidence of age discrimination)).[8]

[8] The remaining evidence also fails to show pretext. The on-air farewell announcement accurately (and neutrally) stated that Vaughn was leaving and thanked him for his contributions. And the

In sum, there is no genuine dispute of fact on the question of whether Defendants' stated reasons for Vaughn's termination were pretextual. There is no direct evidence of any racial discrimination or animus toward Vaughn, and the loose collection of circumstantial evidence proffered by him fails to support the required inference and falls well short of the "specific and substantial" standard for pretext set forth in *Aragon*.

C. Mixed-Motive Analysis

Under the alternative mixed-motive theory, a plaintiff must "produce direct or circumstantial evidence demonstrating that a discriminatory reason more likely than not motivated" the adverse employment action. *McGinest v. GTE Serv. Corp*., 360 F.3d 1103, 1122 (9th Cir. 2004). Regardless of the framework, to survive summary judgment Vaughn "must produce some evidence suggesting" that CBS's decision to terminate him "was due in part or whole to discriminatory intent" and so must counter CBS's explanation that Vaughn's poor performance accounted for his termination. *Id*. at 1123.

Vaughn has not met this burden. For all the reasons discussed, the evidence does not generate a triable issue of fact as to whether race was a motivating factor. The evidence Vaughn highlights—replacement by a black male anchor (after two white men first declined), exclusion from some events (explained by legitimate business reasons and his impending departure), general DEI initiatives (which expressly prohibited race-conscious hiring), and a "Ron Burgundy" comment (explained by reference to his delivery style)—does not raise any genuine dispute of fact as to whether race was a motivating factor in Vaughn's termination, as required even under a mixed-motive analysis. Vaughn reads racial discrimination into facts that simply do not support that inference, even when viewing the evidence in the light most favorable to him.

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retention of two non-white colleagues who were also identified as "weak links," Ex. 50, cannot support a finding of pretext because there is no evidence that Vaughn and these two anchors were similarly situated. *See Moran v. Selig*, 447 F.3d 748, 755 (9th Cir. 2006) (citing *Aragon*, 292 F.3d at 660). To the contrary, one was a morning anchor who was moved to an entertainment reporter role before ultimately being laid off in October 2024. Dello Stritto Supp. Decl. ¶ 5. The other, who also no longer works for CBS, apparently "blossomed" and "improved" after initially being identified as one of the "weaker performers." Ex. 5 at 94:5–95:24 [Dkt. 59-15].

V. CONCLUSION

For the foregoing reasons, Defendants' motion for summary judgment is granted.

Dated: April 7, 2026

Hernán D. Vera
United States District Judge