

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

RICHARD F. FAGONE,

Plaintiff

v.

MARVIN T. RUNYON,  
United States  
Postmaster General,

Defendant

Civil No. 96-106-P-C

GENE CARTER, District Judge

ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, Richard F. Fagone, has brought an action against Defendant, Marvin T. Runyon, United States Postmaster General, alleging violations of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 791 et seq., (Counts I and II); retaliation in violation of Title VII, 42 U.S.C. § 2000e et seq., (Count III); and breach of contract (Count IV). Now before the Court for action is Defendant's Motion for Summary Judgment (Docket No. 9).

Summary judgment is appropriate only when there are no genuine issues as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). After careful review of the pleadings, depositions<sup>1</sup> and affidavits, and viewing the evidence in the light most favorable

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<sup>1</sup>The Court notes that while the parties refer to the deposition of Dr. John L. Newcomb, M.D., the Court has not been provided with a copy of the deposition and therefore has not considered it for the purposes of this motion.

to the nonmoving party, see McCarthy v. Northwest Airlines, Inc., 56 F.3d 313, 315 (1st Cir. 1995), the Court concludes that there are genuine issues of material fact, including, inter alia, a dispute as to whether Plaintiff's ability to work as a postal employee ever became limited by a mental disorder and, if so, to what extent it was or is currently limited. These factual issues require resolution by a factfinder.

Accordingly, Defendant's Motion for Summary Judgment is hereby DENIED.

So ORDERED.

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GENE CARTER  
District Judge

Dated at Portland, Maine this 23<sup>rd</sup> day of December, 1996.