

DOCKET NO.: KNL-CV-24-6065868-S	:	SUPERIOR COURT
NICHOLAS DE LA CRUZ	:	J.D. OF NEW LONDON
	:	AT NEW LONDON
V.	:	
TOWN OF GROTON, ET AL.	:	AUGUST 7, 2026

MEMORANDUM OF DECISION RE MOTION FOR SUMMARY JUDGMENT #127

INTRODUCTION

Before the court is the defendants' motion for summary judgment (#127) as to the employment-related claims asserted against them by the plaintiff. The defendants argue that there is no genuine issue of material fact and that they are entitled to judgment as a matter of law because the plaintiff cannot establish his claims for race discrimination, disability discrimination, workers' compensation relation or violations of the Palliative Use of Marijuana Act. For the reasons stated below, the court grants the motion in its entirety.

FACTS

This is an employment discrimination lawsuit wherein the plaintiff, Nicholas de la Cruz, has brought suit against the defendants,¹ the town of Groton (town), Louis Fusaro, Jr., and Robert Zagami.² In the operative pleading, the substitute complaint filed on September 17, 2025; (docket entry no. 121); the plaintiff alleges the following relevant facts. The plaintiff is a Latino/Asian Pacific Islander male who resides in the town. At the time of the events giving rise

¹ When this case was originally commenced, the town of Groton Police Department was also named a party defendant. On August 28, 2025, the court, *Thomas, J.*, struck all counts against the town of Groton Police Department, so it is no longer a defendant in this action. (Docket entry no. 103.06.)

² The defendants will be referred to collectively as "the defendants" and separately by their names as appropriate.

Memorandum sent on 8/7/26 to:

Marshall T. Seger - JDNO

James M. Tallboys - JDNO

(R) - Robert Kapur (A.C.)
 Robert

to this complaint, Fusaro was the town's chief of police and Zagami was the town's human resources director. The plaintiff was hired by the town as a police officer on March 19, 2014.

In April 2014, while training at the Connecticut Police Academy, the plaintiff suffered a neck injury that has led to an ongoing workers' compensation claim. The plaintiff has reinjured his neck on several occasions, including in July 2017 and October 2018. Although the plaintiff was able to return to work after the July 2017 incident, the plaintiff did not come back to work after reinjuring his neck in October 2018. The plaintiff eventually had cervical fusion surgery in June 2019.

In addition to his physical problems, the plaintiff alleges that he experienced various negative comments about his race and ethnicity during the course of his employment. For example, the plaintiff alleges that he was called "de la Chung" and told "I ate your people's food last night." The complaint does not identify the coworkers who made such comments or when they supposedly occurred. According to the plaintiff, he reported these incidents to Zagami, who eventually closed the case because the plaintiff did not provide enough information to investigate. The plaintiff also notified Fusaro about these comments, but Fusaro told him that "we can handle this in house" and that human resources did not need to be involved.

On February 27, 2020, after the plaintiff had not been to work since October 12, 2018, Fusaro, Zagami, the plaintiff, and other various officials met to discuss the plaintiff's continued employment. The following day, the plaintiff, through his attorney, indicated that he wanted to continue to work in accordance with the relevant portions of the collective bargaining agreement. Via a letter dated March 10, 2020, Fusaro stated that it was clear from the totality of the medical documentation that the plaintiff was completely unable to return to work, not able to perform the

essential duties of the police officer position, and that no additional amount of leave would be able to assist the plaintiff. The town therefore terminated the plaintiff's employment.

Thereafter, on April 2, 2020, the plaintiff applied for a disability pension. On December 21, 2020, and January 6, 2021, Zagami notified the plaintiff that he was unable to certify his eligibility for a disability pension because the submitted medical documentation indicated that the plaintiff was only partially disabled. The plaintiff reapplied for a disability pension in August 2021, with additional documentation indicating that the plaintiff now had a medical marijuana card. This disability pension application was denied on October 15, 2021. The town further indicated that it would not reconsider its prior December 21, 2020 denial of the plaintiff's disability pension. Additionally, on at least two occasions in the early months of 2022, the plaintiff applied for office assistant II administrative positions within the town and its police department. The plaintiff was not hired, or even interviewed, for either job.

As a result of these alleged acts, the plaintiff alleges the following causes of action: (1) count one—discrimination based on race and ethnicity in violation of the Connecticut Fair Employment Practices Act (CFEPA), General Statutes § 46a-51 et seq.; (2) count two—discrimination based on physical disability in violation of CFEPA; (3) count three—discrimination based upon the filing of a workers' compensation claim; and (4) count four—violations of the Palliative Use of Marijuana Act (PUMA), General Statutes § 21a-408 et seq. Counts one and two are only against the town; (docket entry no. 103.06); whereas counts three and four apply to all of the defendants.

On March 11, 2026, the defendants filed a motion for summary judgment and a memorandum of law in support of their motion. (Docket entry no. 127.) The plaintiff filed a memorandum of law in opposition to the summary judgment motion on April 27, 2026. (Docket

entry no. 131.) Both the defendants' motion for summary judgment and the plaintiff's opposition attach numerous exhibits that will be referenced only as necessary in this memorandum of decision. On May 11, 2026, the defendants filed their reply memorandum. (Docket entry no. 133.) The court heard oral argument on the motion for summary judgment and the opposition thereto during the June 8, 2026 Short Calendar.

DISCUSSION

"Practice Book § 17-49 provides that summary judgment shall be rendered forthwith if the pleadings, affidavits and any other proof submitted show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. In deciding a motion for summary judgment, the trial court must view the evidence in the light most favorable to the nonmoving party." (Internal quotation marks omitted.) *Graham v. Commissioner of Transportation*, 330 Conn. 400, 414–15, 195 A.3d 664 (2018). "[S]ummary judgment is appropriate only if a fair and reasonable person could conclude only one way. . . . [A] summary disposition . . . should be on evidence which a jury would not be at liberty to disbelieve and which would require a directed verdict for the moving party. . . . [A] directed verdict may be rendered only where, on the evidence viewed in the light most favorable to the nonmovant, the trier of fact could not reasonably reach any other conclusion than that embodied in the verdict as directed." (Citations omitted; emphasis in original; internal quotation marks omitted.) *Dugan v. Mobile Medical Testing Services, Inc.*, 265 Conn. 791, 815, 830 A.2d 752 (2003). "[T]he genuine issue aspect of summary judgment requires the parties to bring forward before trial evidentiary facts, or substantial evidence outside the pleadings, from which the material facts alleged in the pleadings can warrantably be inferred. . . . A material fact has been defined adequately and simply as a fact which will make a difference in the result of the case."

(Citation omitted; internal quotation marks omitted.) *Buell Industries, Inc. v. Greater New York Mutual Ins. Co.*, 259 Conn. 527, 556, 791 A.2d 489 (2002). “[T]he party moving for summary judgment . . . is required to support its motion with supporting documentation, including affidavits.” (Internal quotation marks omitted.) *Rompney v. Safeco Ins. Co. of America*, 310 Conn. 304, 324 n.12, 77 A.3d 726 (2013). “The existence of the genuine issue of material fact must be demonstrated by counteraffidavits and concrete evidence. . . . If the affidavits and the other supporting documents are inadequate, then the court is justified in granting the summary judgment, assuming that the movant has met his burden of proof.” (Internal quotation marks omitted.) *Rivera v. CR Summer Hill, Ltd.*, 170 Conn. App. 70, 74, 154 A.3d 55 (2017).

I

COUNT ONE: RACE DISCRIMINATION

The town moves for summary judgment as to count one, race discrimination, on the basis that the plaintiff cannot maintain his *prima facie* case for such a claim. Specifically, the defendants assert that the allegations of racial animus set forth in the complaint are too remote in time from any adverse employment action to satisfy the requirement that such comments occurred in a manner that could give rise to an inference of discrimination. The defendants assert that this lapse of time is fatal to the plaintiff’s cause of action set forth in count one.³

³ The town also argues that it is entitled to summary judgment because the plaintiff’s initial filing with the Commission on Human Rights and Opportunities (CHRO) was more than three hundred days after the alleged discriminatory remarks. Although General Statutes § 46a-82 (f) (2) does indicate that a party’s CHRO complaint “shall be filed not later than three hundred days after the date of the alleged act of discrimination,” this statutory language does not mandate that the filing period starts running on the date of the alleged discriminatory comments as opposed to when the plaintiff was terminated. The town provides no legal support for this position, and therefore the court rejects it. Rather, the town admits that the plaintiff was terminated on March 10, 2022, and he filed his complaint with the CHRO on August 15, 2022. (Def’s Exh. Z.) Accordingly, the plaintiff is not time barred under § 46a-82 (f) (2) from pursuing the claims found in count one of his complaint.

At oral argument, the plaintiff's counsel conceded that the only evidence the plaintiff has of racial discrimination is two derogatory comments made in 2017, whereas the sole adverse employment action at issue in this count (the plaintiff's termination), did not occur until March 2020. Nevertheless, the plaintiff still contends that summary judgment is inappropriate as to this count because "if the [p]laintiff has shown that he was the subject of racial and discriminatory statements and that the [d]efendants took no action against the offending officer, then this by its very own is evidence of discriminatory bias by both the [employer] and the agent (Zagami) charged with investigating it." (Pl's brief, p. 14.)

Pursuant to CFEPA: "It shall be a discriminatory practice in violation of this section . . . (1) For an employer, by the employer or the employer's agent, except in the case of a bona fide occupational qualification or need, to refuse to hire or employ or to bar or to discharge from employment any individual or to discriminate against any individual in compensation or in terms, conditions or privileges of employment because of the individual's race" General Statutes § 46a-60 (b). "The [legal] frame-work [our Supreme Court] employs in assessing disparate treatment discrimination claims under Connecticut law was adapted from the United States Supreme Court's decision in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973), and its progeny. . . . Accordingly, under our state law, in order for the plaintiff to prevail on [his] claim of race discrimination based on disparate treatment, [he] must first establish a prima facie case of discrimination." (Citation omitted; internal quotation marks omitted.) *Haywood v. Judicial Dept.*, 178 Conn. App. 757, 767, 176 A.3d 1234 (2017). "[T]o establish a prima facie case of discrimination . . . the complainant must demonstrate that (1) he is in the protected class; (2) he was qualified for the position; (3) he suffered an adverse employment action; and (4) that the adverse action occurred under

circumstances giving rise to an inference of discrimination.” (Internal quotation marks omitted.) *Jones v. Dept. of Children & Families*, 172 Conn. App. 14, 25, 158 A.3d 356 (2017).

With respect to the fourth element of the plaintiff’s prima facie case, “[t]he more remote and oblique the remarks are in relation to the employer’s adverse action, the less they prove that the action was motivated by discrimination. . . . The more a remark evinces a discriminatory state of mind, and the closer the remark’s relation to the allegedly discriminatory behavior, the more probative that remark will be.” (Internal quotation marks omitted.) *Henry v. Wyeth Pharmaceuticals*, 616 F.3d 134, 149 (2d Cir. 2010), cert. denied, 562 U.S. 1279, 131 S. Ct. 1602, 179 L. Ed. 2d 516 (2011).⁴ “Stray remarks by non-decision-makers or by decision-makers unrelated to the decision process are rarely given great weight, particularly if they were made temporally remote from the date of the decision.” (Internal quotation marks omitted.) *Rajaravivarma v. Board of Trustees*, 862 F. Supp. 2d 127, 153 (D. Conn. 2012).

The only racially related comments alleged in the complaint or supported by the evidence filed in connection with the motion for summary judgment are that unnamed employees of the town called the plaintiff “de la Chung” and told the plaintiff that he or she “ate your people’s food last night.” In his deposition, the plaintiff admitted that other than these stray comments, he could not “think of anything right now” that might support his claim of racial discrimination. (Def’s Exh. A, p. 93.) Although the complaint and the plaintiff’s testimony are unclear as to precisely when these comments occurred, a letter from Zagami dated November 15, 2017,

⁴ Although technically not binding, it is appropriate for this court to examine federal decisions, particularly those from the Second Circuit, because the Connecticut Supreme Court has repeatedly stated that it “look[s] to federal law for guidance in interpreting state employment discrimination law, and analyze[s] claims under [the Connecticut Fair Employment Practices Act, General Statutes § 46a-51 et seq., the state counterpart to Title VII] in the same manner as federal courts evaluate federal discrimination claims.” (Internal quotation marks omitted.) *Karagozian v. USV Optical, Inc.*, 335 Conn. 426, 438 n.5, 238 A.3d 716 (2020).

indicates that he was investigating the comments at that time. (Def's Exh. Y.) Therefore, these comments occurred no later than 2017, whereas the plaintiff was not terminated until March 10, 2020. A temporal gap of at least two-and-half years between the comments and the adverse employment action at issue is insufficient to establish a causal nexus between the two events. See, e.g., *Buckman v. Caylon Securities (USA), Inc.*, 817 F. Supp. 2d 322, 336 (S.D.N.Y. 2011) (holding that "remark . . . made in isolation five months before [the plaintiff's] discharge . . . was too remote in time and context to support a reasonable inference that [the plaintiff's] discharge was a result of race discrimination"); *Gregory v. O'Neill*, United States District Court, Docket No. 00-CV-0660 (FB) (E.D.N.Y. 2002) (stating that "alleged reference to [the plaintiff's national] origin, made more than six months before [the plaintiff's] termination, is the kind of isolated and stray remark [that is] insufficient, without more, to raise an inference of discrimination and defeat summary judgment"); *Legendre v. Chase Manhattan Bank*, United States District Court, Docket No. 94 CIV. 2911 (JES) (S.D.N.Y. September 10, 1996) (commenting that "alleged remark . . . made . . . more than eight months before [the plaintiff's] termination . . . [was] too remote in time and place from [the plaintiff's] termination to create a rational inference of . . . discriminatory intent"). Given the remoteness in time between the alleged racially discriminatory comments and the termination of the plaintiff's employment, the defendant town is granted summary judgment on count one.

II

COUNT TWO: DISABILITY DISCRIMINATION

The town next moves for summary judgment as to the plaintiff's disability discrimination cause of action found in count two. In so moving, the town asserts that the plaintiff cannot succeed on any of the challenged decisions referenced in this count. Specifically, the town

argues that its decision to terminate the plaintiff's employment in March 2020 is not actionable because the plaintiff cannot establish that he was capable of performing the essential functions of his job with or without accommodation. As to the denial of his disability pension, the town contends this claim fails because there was no adverse employment action due to the fact that the plaintiff was no longer employed at the time of the denial. Finally, with respect to the fact that the plaintiff was not interviewed for the open office assistant II positions, the town contends that there is no evidence that the individuals who were on the screening committee were aware of the plaintiff's disability status, and therefore there is no evidence of intent to discriminate. The town also argues that there is no evidence that it acted in a pretextual manner.

In response, the plaintiff contends there are genuine issues of material fact with respect to all of these challenged employment decisions. The plaintiff notes that both Fusaro and Zagami cited to the fact that the plaintiff was permanently disabled when the town terminated his employment, but they then indicated that he was not disabled enough to qualify for a disability pension. According to the plaintiff, this discrepancy creates a factual dispute that precludes summary judgment. The plaintiff also asserts that the town did not follow the applicable collective bargaining agreement. Additionally, the plaintiff contends that there is a genuine issue of material fact regarding whether the town discriminated against him when it failed to interview him for the open administrative positions because in its emails informing him that he did not receive an interview, the town did not say that he was unqualified.

Under CFEPA: "It shall be a discriminatory practice in violation of this section . . . (1) For an employer, by the employer or the employer's agent, except in the case of a bona fide occupational qualification or need, to refuse to hire or employ or to bar or to discharge from employment any individual or to discriminate against any individual in compensation or in

terms, conditions or privileges of employment because of the individual's . . . physical disability" General Statutes § 46a-60 (b). "In the disability context, a prima facie case for disparate treatment is established under the [*McDonnell Douglas Corp.* . . .] framework if the plaintiff shows: (1) he suffers from a disability or handicap, as defined by the [applicable statute]; (2) he was nevertheless able to perform the essential functions of his job, either with or without reasonable accommodation; and that (3) [the defendant] took an adverse employment action against him because of, in whole or in part, his protected disability." (Internal quotation marks omitted.) *Barbabosa v. Board of Education*, 189 Conn. App. 427, 437, 207 A.3d 122 (2019). As set forth by *McDonnell Douglas* and its progeny, once the plaintiff makes out a prima facie case of disability discrimination, "[t]he employer may then rebut the prima facie case by stating a legitimate, nondiscriminatory justification for the employment decision in question. . . . The employee then must demonstrate that the reason proffered by the employer is merely a pretext and that the decision actually was motivated by illegal discriminatory bias." (Citations omitted; internal quotation marks omitted.) *Feliciano v. Autozone, Inc.*, 316 Conn. 65, 74, 111 A.3d 453 (2015).

As to the town's initial decision to terminate the plaintiff's employment in March 2020, the summary judgment record contains ample evidence that the plaintiff was incapable of performing the essential functions of his job as a patrol officer with or without accommodation. According to the town's job description for this position, the "essential functions of [the] job" may include the ability to "lift up to 50 lbs. and lift/move up to 200 lbs." (Def's Exh. G.) In a letter dated January 27, 2020, however, Dr. Patrick F. Doherty made clear that the plaintiff "remain[ed] unable to be released to work full duty as a patrol officer . . . [because of his inability] to lift, push, pull 200 pounds . . ." (Def's Exh. F.) By this time, the plaintiff had been

on medical leave for more than a year. In his March 10, 2020 letter terminating the plaintiff's employment, Fusaro noted that Dr. Doherty's report "provided no ambiguous language and did not offer that further physical therapy or medical evaluations would create a situation whereby you would be able to return to the duties of a police officer." (Def's Exh. J.) The plaintiff does not seriously dispute that he was unable to work as a police officer at the time his employment ended. The law in Connecticut is clear that the ability to show up to work and perform the assigned tasks of the job is an essential function. *Barbabosa v. Board of Education*, supra, 189 Conn. App. 438 (stating that the Appellate Court and "numerous federal courts have recognized that attendance at work is a necessary job function."). Accordingly, the plaintiff fails to raise a genuine issue of material fact on the required element that he could perform the essential functions of the police officer job with or without a reasonable accommodation. Therefore, the plaintiff cannot make out a prima facie case sufficient to withstand summary judgment as to his March 2020 termination.

With respect to the denial of the plaintiff's disability application, it is undisputed that the plaintiff was no longer employed by the town at the time of that decision. It is well established that "[b]oth Title VII [of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. . . . and the Connecticut Fair Employment Practices Act [General Statutes § 46a-51 et seq.] . . . require an adverse employment action" (Internal quotation marks omitted.) *Eagen v. Commission on Human Rights & Opportunities*, 135 Conn. App. 563, 573, 42 A.3d 478 (2012). "A plaintiff sustains an adverse employment action if he or she endures a materially adverse change in the terms and conditions of employment. . . . [A]n adverse employment action [has been defined] as a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant

change in benefits.” (Citation omitted; internal quotation marks omitted.) *Amato v. Hearst Corp.*, 149 Conn. App. 774, 781, 89 A.3d 977 (2014). Therefore, a “[p]laintiff cannot establish that he suffered an adverse employment action [when] the conduct [p]laintiff complains of occurred after [p]laintiff was no longer employed by [d]efendant.” *Hopkins v. Board of Education*, 834 F. Supp. 2d 58, 64 (D. Conn. 2011). This principle has been specifically applied by courts in other jurisdictions with respect to disability pensions. See, e.g., *Carroll v. San Francisco*, 115 Cal. App. 5th 1192, 1202, 338 Cal. Rptr. 3d 84 (2025) (noting trial court’s observation that “adverse employment actions typically involve changes to the terms of conditions of employment, and plaintiffs did not provide authority showing that the award of disability retirement benefits under a set disability pension formula qualified as an adverse employment action”); *Dedyo v. Baker Engineering N.Y., Inc.*, United States District Court, Docket No. 96-CV-7152 (S.D.N.Y. Jan. 13, 1998) (“[A] simple denial of entitlement under a disability plan does not state a claim under the ADA.”); *Jernigan v. NYCERS*, United States District Court, Docket No. 08-CV-3829, (E.D.N.Y. Mar. 18, 2010) (“It is not clear to this [c]ourt that the denial of disability benefits, after [p]laintiff was terminated from his employment . . . can ever constitute the type of adverse employment action for which the ADA provides a remedy.”) Because the plaintiff could not have experienced an adverse employment action when he was denied a disability pension after the end of his employment, summary judgment is granted as to this claim.

The plaintiff also fails to raise a genuine issue of material fact regarding the town’s failure to interview him for the open office assistant II positions in January and May 2022. Under Connecticut law, “[f]or a plaintiff to establish that he suffered adverse employment action because of his disability, [t]he employer’s decision makers must have notice of the disability for

the employer to be held liable An employee cannot be subject to an adverse employment action based on his disability unless the individual decisionmaker responsible for his [adverse employment action] has knowledge of that disability.” (Citation omitted; internal quotation marks omitted.) *Brown v. Hartford Healthcare, Inc.*, Superior Court, judicial district of Hartford, Docket No. CV-21-6148932-S (July 22, 2024, *Rosen, J.*).

According to the undisputed testimony in Fusaro’s affidavit, the town’s human resources department initially screened the applications and then provided him with a list of qualified candidates to interview. (Def’s Exh. CC.) There is no evidence that any of these individuals were aware that the plaintiff had a disability. Moreover, it is important to note that Zamagi was no longer employed by the town as of September 9, 2021. (Def’s Exh. DD.) Although the plaintiff does note that Fusaro made a statement in his deposition that sometimes the human resources staff would circulate a list of candidates before the production of the certified list of qualified applicants and he does not “specifically recall that happening here,” that statement alone is insufficient to create a genuine issue of material fact regarding the initial screeners’ knowledge of the plaintiff’s disability. (Def’s Exh H, p. 31.) There is no evidence that the initial decisionmakers knew the plaintiff was disabled; therefore he cannot succeed on his claim that he was discriminated against when he was not deemed qualified to be interviewed for the office assistant II positions in 2022. Accordingly, summary judgment is granted in the town’s favor as to count two.

III

COUNT THREE: RETALIATION

Next, the defendants move for summary judgment on count three, discrimination based on the filing of a workers’ compensation claim, on the ground that the plaintiff cannot

demonstrate an inference of discriminatory intent based on the six-year gap between the filing of his workers' compensation claim and his termination. According to the defendants, the long lapse in time between the initial filing of the workers' compensation claim, without additional evidence of discriminatory bias, means they are entitled to judgment as a matter of law on this count.

The plaintiff opposes this argument by contending that there is a genuine issue of material fact regarding the defendants' handling of the plaintiff's workers' compensation claim. Specifically, the plaintiff asserts that the defendants disregarded the clear language of the relevant collective bargaining agreement, and that such behavior demonstrates discriminatory intent. As to the temporal proximity argument raised by the defendants, the plaintiff contends that because his work-related injuries persist to the present day, that "'temporal proximity' exists throughout all relevant time periods and claims." (Pl's brief, p. 7.)

The Connecticut Workers' Compensation Act, General Statutes § 31-290a (a), provides, in relevant part, that: "No employer who is subject to the provisions of this chapter shall: (1) Discharge or cause to be discharged, or in any manner discipline or discriminate against any employee because the employee has filed a claim for workers' compensation benefits or otherwise exercised the rights afforded to him pursuant to the provisions of this chapter" "[F]ederal and state law retaliation claims are reviewed under the burden-shifting approach of *McDonnell Douglas*." (Internal quotation marks omitted.) *Ansonia Police Union FOP Local 913 v. Ansonia*, Superior Court, judicial district of Ansonia-Milford, Docket No. CV-23-6052657-S (January 23, 2025, *Stevens, J.T.R.*). "To establish a prima facie case of retaliation, an employee must show (1) the employee was engaged in protected activity; (2) the employer was aware of that activity; (3) the employee suffered an adverse employment action; and (4) there

was a causal connection between the protected activity and the adverse employment action.”

(Internal quotation marks omitted.) *Samakaab v. Dept. of Social Services*, 178 Conn. App. 52, 62, 173 A.3d 1004 (2017).

Regarding the fourth element of the plaintiff’s prima facie case, the Appellate Court has stated that “[t]he temporal proximity between [the] two events as circumstantial evidence of causation . . . standing alone, is insufficient. . . . The United States Supreme Court has stated that the two events must be ‘very close’ and that a proximity of three months or more is insufficient where the court is solely relying on temporal proximity.” (Citations omitted; internal quotation marks omitted.) *Luth v. OEM Controls, Inc.*, 203 Conn. App. 673, 691, 252 A.3d 406 (2021), citing, *Clark County School District v. Breeden*, 532 U.S. 268, 273, 121 S. Ct. 1508, 149 L. Ed. 2d 509 (2001).

Although the plaintiff does argue, in a cursory manner, that the defendants deviated from the procedures outlined in the relevant collective bargaining agreement when processing the plaintiff’s workers’ compensation claim, the plaintiff does not identify precisely how this is alleged to have occurred. Therefore, in effect, the plaintiff is relying on temporal proximity alone. It is undisputed that the plaintiff first filed his claim for workers’ compensation in 2014. (Def’s Exh C.) Even though the plaintiff did exacerbate his neck injury in 2017 and 2018, these events were well before the plaintiff was fired on March 10, 2020. The other alleged adverse employment actions in this matter occurred even later than the plaintiff’s termination. Therefore, even if the court were to view the evidence in a light most favorable to the plaintiff and treat the plaintiff’s reaggravations of his neck injury as, in effect, new workers’ compensation claims, these occurrences are still well outside the three-month window articulated in *Luth*. Accordingly, the court grants summary judgment in favor of the defendants as to count three.

IV

COUNT FOUR: PUMA

Finally, the defendants move for summary judgment as to count four, violation of PUMA, contending that the plaintiff cannot establish that he was discharged solely because of his status as a qualifying patient under the statute. The defendants argue that the plaintiff's PUMA claim is fatally defective because the plaintiff cannot meet this standard.⁵

In response, the plaintiff contends there are genuine issues of material fact regarding the various defendants' motivations for the actions they took against him. The plaintiff notes that Zagami was aware that the plaintiff possessed a medical marijuana card and he is the individual who denied the plaintiff's disability applications. As to his office assistant applications, the plaintiff points out that Fusaro may have been involved in the selection process. Consequently, the plaintiff maintains there are genuine issues of material fact that preclude summary judgment on this count.

General Statutes § 21a-408p (b) (3) provides, in relevant part, that: "No employer may refuse to hire a person or may discharge, penalize or threaten an employee solely on the basis of such person's or employee's status as a qualifying patient or caregiver under sections 21a-408 to

⁵ The defendants also argue they are entitled to summary judgment because, as marijuana is still considered to be a controlled substance under federal law, the plaintiff would be unable to possess a firearm and thus be unemployable as a police officer. Although at first blush this argument may appear to be logical, in reality, this argument is unpersuasive because the two potentially challenged adverse employment actions at issue in this count, the second denial of the plaintiff's disability application and the town's failure to hire him for the open office assistant positions, have nothing to do with the plaintiff's legal ability to carry a firearm. Therefore, the court rejects this argument as a sufficient basis to grant summary judgment in favor of the defendants.

21a-408m, inclusive.” Although not clearly outlined in the text of § 21a-408p (b) (3), Connecticut courts have concluded that “an employer’s termination of an employee based solely on the employee’s status as a qualifying patient under PUMA gives rise to a private cause of action.” *Eccleston v. Waterbury*, Superior Court, judicial district of Waterbury, Docket No. CV-21-6059954-S (June 11, 2025, *Massicotte, J.*). Importantly, however, “[t]he plain language of § 21a-408p (b) (3) indicates that, to establish a violation thereof, an employer must be shown to have discharged ‘an employee *solely* on the basis of such person’s or employee’s status as a qualifying patient’” (Emphasis in original.) *Bartolotta v. Human Resources Agency of New Britain, Inc.*, 224 Conn. App. 248, 262, 312 A.3d 59, cert. denied, 349 Conn. 908, 313 A.3d 513 (2024).

According to the affidavit attached to his CHRO complaint, the plaintiff first submitted his medical marijuana card with his renewed application for disability retirement in August 2021. (Def’s Exh. Z.) Therefore, logically speaking, only the denial of that application and subsequent events such as the 2022 office assistant applications are at issue in this count. Although the plaintiff may be correct that Zagami, in his role as the town’s human resources director, knew that the plaintiff possessed a medical marijuana card, the record reflects that the second disability pension application was denied for the same reason as the first, in that “the [t]own remains unable to certify [the plaintiff’s] eligibility for a disability retirement because he does not meet the standard of being totally and permanently disabled as provided under the Workers’ Compensation Act.” (Def’s Exh. V.) Although the plaintiff may credibly argue that there is a genuine issue of material fact as to whether his status as a medical marijuana user played some role in the defendants’ decision not to grant him a disability pension, it is clear that he was not denied same *solely* because of this status. Because Section 21a-408p (b) (3) requires that a

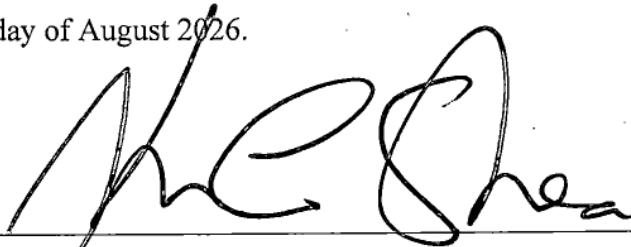
plaintiff be penalized *solely* based on his status as a qualifying patient, the plaintiff's PUMA claim fails with respect to the second disability pension application.⁶

As to the plaintiff's unsuccessful office assistant applications that occurred in January and May 2022, it is important to note, as previously mentioned, that Zamagi was no longer employed by the town as of September 9, 2021. (Def's Exh. DD.) There is no evidence in the summary judgment record that the individuals who screened the applications for the office assistance role were aware that the plaintiff used medical marijuana. Accordingly, the plaintiff fails to raise a genuine issue of material fact as to whether he was not hired *solely* because of his status as a medical marijuana user. For these reasons, summary judgment is granted in favor of the defendants on count four.

CONCLUSION

For all of the foregoing reasons, the defendants' motion for summary judgment is granted in its entirety.

It is so ordered this 7th day of August 2026.



Shea, J.

⁶ It is also unclear whether denial of a disability pension would qualify as any of prohibited activities listed in § 21a-408p (b) (3).