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Reymita Walls, appellant and cross-appellee, v. Metropolitan Utilities District of Omaha, doing business as M.U.D., appellee and cross-appellant.

___ N.W.3d ___

Filed November 10, 2026. No. A-25-477.

1. **Summary Judgment: Appeal and Error.** An appellate court reviews the district court's grant of summary judgment de novo, viewing the record in the light most favorable to the nonmoving party and drawing all reasonable inferences in that party's favor.
2. ____: ____. An appellate court affirms a lower court's grant of summary judgment if the pleadings and admitted evidence show that there is no genuine issue as to any material facts or as to the ultimate inferences that may be drawn from the facts and that the moving party is entitled to judgment as a matter of law.
3. **Trial: Evidence: Appeal and Error.** A trial court has the discretion to determine the relevancy and admissibility of evidence, and such determinations will not be disturbed on appeal unless they constitute an abuse of that discretion.
4. **Judges: Evidence: Presumptions.** It is presumed that judges disregard evidence which should not have been admitted.
5. **Evidence: Presumptions.** The district court, as the trier of fact in a bench trial, is presumed to have considered only the appropriate evidence.
6. ____: ____. Absent a showing to the contrary, it is presumed that the trial court disregarded all incompetent and irrelevant evidence.
7. **Employer and Employee: Discrimination: Words and Phrases.** A disparate treatment claim is based on an employer's treating some people less favorably than others because of their race, color, religion, sex, or other protected characteristics.
8. **Discrimination: Proof.** In claims of disparate treatment, the Nebraska Supreme Court has looked to the burden-shifting three-part framework

established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973).

9. ____: ____. Under *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973), first the plaintiff has the burden of proving a prima facie case of discrimination.
10. **Employer and Employee: Discrimination: Proof.** Once the plaintiff has established a prima facie case of discrimination, the burden of production shifts to the employer to rebut the prima facie case by producing clear and reasonably specific admissible evidence that would support a finding that unlawful discrimination was not the cause of the employment action.
11. ____: ____: ____. When the employer articulates a legitimate, nondiscriminatory reason for the decision, raising a genuine issue of fact as to whether it discriminated against the employee, the employer's burden of production created by the employee's prima facie case is satisfied and drops from the case.
12. ____: ____: ____. In an employment discrimination action, after the employer has presented a sufficient, neutral explanation for its decision, the question is whether there is sufficient evidence from which a jury could conclude that the employer made its decision based on the employee's protected characteristic, despite the employer's proffered explanation.
13. ____: ____: ____. The employee must be afforded the opportunity to prove by a preponderance of the evidence that the legitimate reasons offered by the defendant were not its true reasons, but were a pretext for discrimination.
14. ____: ____: ____. The plaintiff may attempt to establish that he or she was the victim of intentional discrimination by showing that the employer's proffered explanation is unworthy of credence.
15. **Summary Judgment.** Summary judgment is proper only when the pleadings, depositions, admissions, stipulations, and affidavits in the record disclose that there is no genuine issue as to any material fact or as to the ultimate inferences that may be drawn from those facts and that the moving party is entitled to judgment as a matter of law.
16. **Summary Judgment: Proof.** The party moving for summary judgment must make a prima facie case by producing enough evidence to show the movant would be entitled to judgment if the evidence were uncontroverted at trial.
17. ____: ____. If the moving party makes a prima facie case, the burden shifts to the nonmovant to produce evidence showing the existence of a material issue of fact that prevents judgment as a matter of law.

18. ____: ____. If the burden of proof at trial would be on the nonmoving party, then the party moving for summary judgment may satisfy its prima facie burden either by citing to materials in the record that affirmatively negate an essential element of the nonmoving party's claim or by citing to materials in the record demonstrating that the nonmoving party's evidence is insufficient to establish an essential element of the nonmoving party's claim.
19. **Discrimination: Judgments.** Whether judgment as a matter of law is appropriate in any particular case will depend on a number of factors, and courts should not treat discrimination differently from other ultimate questions of fact.
20. **Discrimination.** The *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973), methodology was never intended to be rigid, mechanized, or ritualistic.
21. **Discrimination: Evidence: Circumstantial Evidence: Proof.** No matter what test or order of proof is adopted, all relevant direct and circumstantial evidence is considered in its totality in determining whether judgment as a matter of law is warranted in an action alleging unlawful discrimination.
22. **Employer and Employee: Words and Phrases.** A "pretext" is found when the court disbelieves the reason given by an employer, allowing an inference that the employer is trying to conceal an impermissible reason for its action.
23. **Employer and Employee: Discrimination: Proof.** The employee may demonstrate pretext either by showing that the employer's explanation for its action is unworthy of credence, because it has no basis in fact, or by persuading the court that a prohibited reason more likely motivated the employer.
24. **Discrimination: Evidence.** The specific evidence presented to demonstrate discriminatory animus may vary, and its sufficiency will be considered as a whole.
25. **Employer and Employee: Discrimination: Proof.** A plaintiff may demonstrate pretext by showing that (1) the employer's proffered reasons had no basis in fact, (2) the employer's proffered reasons were against the employer's policy or practice or involved other procedural irregularities, (3) the employer's proffered reasons have changed substantially over time or are inconsistent, (4) the plaintiff was the better qualified applicant, (5) the plaintiff had a laudable prior work history, (6) there was a sharp decline in the plaintiff's performance evaluations near the time of the employer's contested action, (7) the decisionmaker overplayed the chosen applicant's strengths, (8) the decisionmaker made statements expressing a discriminatory attitude, (9) statistical analysis

demonstrating a pattern and practice of discrimination, (10) comparative evidence that similarly situated persons in a nonprotected class were treated more favorably, and (11) prior instances of disparate treatment of the plaintiff by the defendant in other contexts.

26. **Appeal and Error.** An appellate court is not obligated to engage in an analysis that is not necessary to adjudicate the case and controversy before it.

Appeal from the District Court for Douglas County: TRESSA M. ALIOTH, Judge. Affirmed.

Joy Shiffermiller, of Shiffermiller Law Office, P.C., L.L.O., for appellant.

Marc Willis and A. Justin Cooper, of Metropolitan Utilities District of Omaha, for appellee.

RIEDMANN, Chief Judge, and PIRTLE and PICCOLO, Judges.

PIRTLE, Judge.

I. INTRODUCTION

Reymita Walls filed a complaint against Metropolitan Utilities District of Omaha, doing business as M.U.D. (MUD), alleging she was discriminated against in not being promoted to a newly created position. The district court for Douglas County granted summary judgment in favor of MUD. Walls appeals, and MUD cross-appeals. Based on the reasons that follow, we affirm.

II. BACKGROUND

MUD is a political subdivision created under the laws of the State of Nebraska, with its principal place of business in Omaha, Douglas County, Nebraska. Walls is a "Black/Latina" female who was 66 years old at the time she filed her complaint. Walls has been an employee with MUD since January 24, 1990. She has held her most recent position with MUD, titled "Supervisor, QA Customer Service," since September 16, 2010. The job title for the position has been renamed to

"Sr. QA Specialist," and the pay grade of her position has changed, but Walls' job duties and pay remain the same.

On November 28, 2022, Walls applied for a newly created position titled "Supervisor, Training and Quality Assurance" and was interviewed on December 16. On February 15, 2023, MUD announced that Jeremy Bach, a 39-year-old white male, was selected for the position.

On January 11, 2024, Walls filed a complaint against MUD alleging that it discriminated against her during the course of her employment on the basis of her age, race, and gender by failing to promote her to the new position, changing her job title and reclassifying the pay grade of her position, and failing to provide her with professional development opportunities.

MUD filed an answer, denying any discrimination against Walls and alleging several affirmative defenses. MUD subsequently filed a motion for summary judgment.

At the summary judgment hearing, MUD offered into evidence Walls' complaint; MUD's answer; Walls' answers to MUD's first set of interrogatories; an affidavit of Shalon Buffum, MUD's director of customer service and Walls' direct supervisor from June 16, 2019, to February 16, 2023, with attachments; an affidavit of MUD's vice president of human resources, with attachments; and an affidavit of MUD's compliance attorney, with attachments. Walls offered one exhibit into evidence (exhibit 7), an affidavit of Walls' counsel, with attachments. MUD objected to exhibit 7 on hearsay grounds, and the court took the objection under advisement. In its order, the court overruled MUD's objections and received exhibit 7 into evidence, noting that it would disregard any portions of exhibit 7 that failed to comply with the applicable rules of evidence.

The district court granted summary judgment in favor of MUD, finding there was no genuine issue of material fact as to whether MUD's stated reasons for not hiring Walls for the new position and for changing her job title and pay grade were pretexts for discrimination. It also found Walls received

training and development opportunities consistent with all employees and Walls failed to meet her burden to produce evidence to prevent judgment as a matter of law.

III. ASSIGNMENTS OF ERROR

Walls assigns the district court erred in (1) failing to clearly articulate what parts of exhibit 7 it was disregarding; (2) finding there was no genuine issue of material fact that she was discriminated against on the basis of her race, gender, and/or age; (3) failing to view the facts in the light most favorable to the nonmoving party; (4) failing to find there was a dispute of material fact as to whether MUD's actions violated Walls' right to be free from discrimination based on her race, gender, and/or age; and (5) determining that there was no evidence that MUD's articulated reason for hiring Bach was a pretext for discrimination.

On cross-appeal, MUD assigns the district court erred in (1) failing to determine that Walls was unqualified for the new position and (2) failing to determine that the change to Walls' job title was not a demotion.

IV. STANDARD OF REVIEW

[1,2] An appellate court reviews the district court's grant of summary judgment de novo, viewing the record in the light most favorable to the nonmoving party and drawing all reasonable inferences in that party's favor. *D&M Roofing & Siding v. Distribution, Inc.*, 319 Neb. 707, 24 N.W.3d 850 (2025). An appellate court affirms a lower court's grant of summary judgment if the pleadings and admitted evidence show that there is no genuine issue as to any material facts or as to the ultimate inferences that may be drawn from the facts and that the moving party is entitled to judgment as a matter of law. *Id.*

[3] A trial court has the discretion to determine the relevancy and admissibility of evidence, and such determinations will not be disturbed on appeal unless they constitute an abuse of that discretion. *Hartley v. Metropolitan Util. Dist.*, 294 Neb. 870, 885 N.W.2d 675 (2016).

V. ANALYSIS

1. Walls' Exhibit 7

Walls first assigns the district court erred in failing to clearly articulate what parts of exhibit 7 it was disregarding. When the district court overruled MUD's objection to Walls' exhibit 7, it stated it would disregard any portions of exhibit 7 that failed to comply with the applicable rules of evidence. Walls argues it is unclear what the court may or may not have disregarded, and to the extent that the court disregarded any part of the evidence she offered, the court erred. She also contends the court should have articulated what evidence it disregarded. Walls fails to cite to any authority requiring the district court to articulate what evidence, if any, it disregarded.

[4-6] We determine the district court did not err in disregarding portions of exhibit 7 that failed to comply with the applicable rules of evidence without stating what specifically it disregarded. It is presumed that judges disregard evidence which should not have been admitted. *Tapia-Reyes v. Excel Corp.*, 281 Neb. 15, 793 N.W.2d 319 (2011). See, also, *Bornhorst v. Bornhorst*, 28 Neb. App. 182, 941 N.W.2d 769 (2020) (district court, as trier of fact in bench trial, is presumed to have considered only appropriate evidence); *In re Interest of Ty M. & Devon M.*, 265 Neb. 150, 655 N.W.2d 672 (2003) (absent showing to contrary, it is presumed trial court disregarded all incompetent and irrelevant evidence). We presume the district court appropriately disregarded any part of exhibit 7 that should not have been admitted. There is no requirement that the court state what evidence it disregarded, as Walls argues. Walls' first assignment of error fails.

2. Summary Judgment in Favor of MUD

Walls' remaining assignments of error are related, and accordingly, we address them together. Generally, Walls assigns the district court erred in granting summary judgment in favor of MUD because there were genuine issues of material fact as to whether MUD discriminated against her when

it failed to promote her to "Supervisor, Training and Quality Assurance," hereinafter referred to as the "new position." Although she alleged discrimination based on race, gender, and/or age, she only focuses on gender.

[7] Walls' discrimination claim against MUD is one of disparate treatment—a claim based on an employer's treating some people less favorably than others because of their race, color, religion, sex, or other protected characteristics. See *Hartley v. Metropolitan Util. Dist.*, 294 Neb. 870, 885 N.W.2d 675 (2016).

[8-11] In claims of disparate treatment, the Nebraska Supreme Court has looked to the burden-shifting three-part framework established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973). See *Hartley v. Metropolitan Util. Dist., supra*. Under *McDonnell Douglas Corp.*, first the plaintiff has the burden of proving a prima facie case of discrimination. *Hartley v. Metropolitan Util. Dist., supra.* Once the plaintiff has established a prima facie case of discrimination, the burden of production shifts to the employer to rebut the prima facie case by producing "'clear and reasonably specific'" admissible evidence that would support a finding that unlawful discrimination was not the cause of the employment action. *Id.* at 893, 885 N.W.2d at 694. When the employer articulates a legitimate, nondiscriminatory reason for the decision, raising a genuine issue of fact as to whether it discriminated against the employee, the employer's burden of production created by the employee's prima facie case is satisfied and drops from the case. *Hartley v. Metropolitan Util. Dist., supra.*

[12-14] After the employer has presented a sufficient, neutral explanation for its decision, the question is whether there is sufficient evidence from which a jury could conclude that the employer made its decision based on the employee's protected characteristic, despite the employer's proffered explanation. *Id.* At this stage, the employee must be afforded the opportunity to prove by a preponderance of the evidence that the legitimate

reasons offered by the defendant were not its true reasons, but were a pretext for discrimination. *Id.* That is, the plaintiff may attempt to establish that he or she was the victim of intentional discrimination by showing that the employer's proffered explanation is unworthy of credence. *Id.*

The *McDonnell Douglas Corp.* burden-shifting framework is relevant to this appeal, as it involves an employment discrimination claim. However, this case was decided on a summary judgment motion. Accordingly, our analysis is ultimately based on the burden-shifting framework for a summary judgment motion.

[15] Summary judgment is proper only when the pleadings, depositions, admissions, stipulations, and affidavits in the record disclose that there is no genuine issue as to any material fact or as to the ultimate inferences that may be drawn from those facts and that the moving party is entitled to judgment as a matter of law. *407 N 117 Street v. Harper*, 314 Neb. 843, 993 N.W.2d 462 (2023).

[16,17] The party moving for summary judgment must make a prima facie case by producing enough evidence to show the movant would be entitled to judgment if the evidence were uncontroverted at trial. *Id.* If the moving party makes a prima facie case, the burden shifts to the nonmovant to produce evidence showing the existence of a material issue of fact that prevents judgment as a matter of law. *Id.*

[18] If the burden of proof at trial would be on the nonmoving party, then the party moving for summary judgment may satisfy its prima facie burden either by citing to materials in the record that affirmatively negate an essential element of the nonmoving party's claim or by citing to materials in the record demonstrating that the nonmoving party's evidence is insufficient to establish an essential element of the nonmoving party's claim. *Clark v. Scheels All Sports*, 314 Neb. 49, 989 N.W.2d 39 (2023).

[19-21] Whether judgment as a matter of law is appropriate in any particular case will depend on a number of factors,

and courts should not treat discrimination differently from other ultimate questions of fact. *Hartley v. Metropolitan Util. Dist.*, 294 Neb. 870, 885 N.W.2d 675 (2016). The *McDonnell Douglas Corp.* methodology was never intended to be rigid, mechanized, or ritualistic. *Hartley v. Metropolitan Util. Dist., supra.* No matter what test or order of proof is adopted, all relevant direct and circumstantial evidence is considered in its totality in determining whether judgment as a matter of law is warranted in an action alleging unlawful discrimination. *Id.*

Regarding Walls' "failure to promote" claim, the district court found MUD met its burden to demonstrate it was entitled to summary judgment as a matter of law by putting forth sufficient evidence to establish a prima facie case that its actions were not discriminatory. It further found that because MUD met its prima facie summary judgment burden, the burden shifted to Walls to produce evidence creating a genuine issue of material fact to prevent summary judgment. It determined Walls failed to meet her burden and, therefore, MUD was entitled to summary judgment. As explained below, we agree with the district court's conclusion.

(a) MUD Met Its Initial Burden

Walls' complaint alleged MUD discriminated against her when it failed to promote her to the new position. In support of its motion for summary judgment, MUD offered evidence demonstrating that it had a nondiscriminatory reason for not promoting Walls to the new position. Specifically, MUD's nondiscriminatory reason for its employment decision was that the candidate that it hired, Bach, was more qualified for the new position.

The evidence MUD presented in support of summary judgment included evidence regarding the process it used to create and establish the new position, as well as its hiring process. MUD's reason for creating the new position was based on the need to align two primary functions of MUD's customer

service division—quality assurance, which was overseen by Walls, and training. MUD determined that having a common supervisor overseeing both areas who had knowledge and experience in both areas would improve the effectiveness and efficiency of the department. As a result, the new position was created.

Buffum, MUD's director of customer service and the hiring manager for the new position, along with Stephanie Mueller, vice president of customer experience, and MUD's human resources department were responsible for developing the job description, creating the job requisition that led to the job's being posted, reviewing the submitted applications, developing interview questions for conducting the interviews, and selecting a candidate. The job description was finalized on October 27, 2022, detailing 15 specific job requirements.

On November 8, 2022, Buffum and Mueller informed Walls about the new position and that her current position would report to the new position. She was also informed that her job title, but not her job duties or her salary, would be changed. Buffum requested Walls' input on the revised job title. Buffum also told Walls she was welcome to apply for the new position.

On November 9, 2022, Buffum, Mueller, and MUD's human resources department created a standardized set of interview questions that would be asked of all applicants that were interviewed. These were developed before any applications were received and were based on the specific job requirements. Buffum also identified six major minimum requirements for the new position from the 15 specific job requirements outlined in the requisition. A "Supervisor's Documentation Form" was created to use in the interviews to score each candidate in each of the six major minimum requirements. In each area, the candidate was rated as "Does not Meet," "Somewhat Meets," "Meets," or "Exceeds." The six major minimum job requirements identified were (1) a degree in business, analytics, or a related field; (2) a minimum of 3 years of experience

in training and experience "developing high quality targeted training programs" to ensure customer satisfaction; (3) a minimum of 3 years of quality management experience with "a proven track record of driving increased quality scores and improved customer satisfaction"; (4) experience in analyzing "multiple sources of data to provide data-driven recommendations for improved outcomes"; (5) knowledge of business process improvement methods, such as "Lean Six Sigma," or other related methodologies; and (6) communication skills.

The job was posted on November 11, 2022. On November 21, Walls informed Buffum that she intended to apply for the new position, and on November 28, Walls submitted her application. MUD received 27 applications. Six candidates were interviewed—four women and two men.

Walls was interviewed on December 16, 2023. Following her interview, Walls was ranked as "Does not Meet" for three of the six requirements: a minimum of 3 years of experience in training, experience analyzing multiple sources of data to provide data-driven recommendations for improved outcomes, and knowledge of business process improvement methods, such as "Lean Six Sigma," or other related methodologies. For the remaining three requirements, she was rated as "Somewhat Meets" for one and as "Meets" for the other two. She was ranked last out of the six candidates interviewed.

The "Supervisor's Documentation Form" was received into evidence containing each candidate's ratings for the six requirements, as well as notes about each candidate from the interviews. The ratings and notes are evidence of a nondiscriminatory reason Bach, as well as the other candidates, were preferred over Walls.

Following all interviews, a female external candidate, who met or exceeded all six requirements and was ranked first out of the six candidates, was offered and accepted the new position. She subsequently withdrew her acceptance. On February 15, 2023, the new position was offered to Bach, the second-ranked candidate, who accepted. Bach was ranked

as "Exceeds" for three requirements and as "Meets" for the other three. Walls was notified on February 15 that Bach was offered and accepted the new position.

MUD also presented evidence that in November 2022, when the new position was being discussed, it had identified that the job title for Walls' position as "Supervisor, QA Customer Service" would need to change to avoid having a supervisor position reporting to another supervisor position. MUD had also been working to identify job titles that included "supervisor" in the title but that did not have any supervisory responsibilities and to adjust the titles accordingly. The "Supervisor, QA Customer Service" position fell into that category. In addition, in 2015, MUD underwent a company-wide review of the salaries of all supervisory, professional, and administrative positions with the assistance of an outside consultant. Based on the salary review, it was determined that the "Supervisor, QA Customer Service" position should be an "SPA-3" pay grade, rather than the higher "SPA-4" pay grade that Walls was being paid. MUD decided it would continue paying Walls at the SPA-4 pay grade as long as she remained in the position and it would formally regrade the position whenever it became vacant in the future. After Walls was not selected for the new position, she continued to receive the same salary at the SPA-4 pay grade. If she had been offered the new position, her salary would have remained the same, as the new position was also at the SPA-4 pay grade.

On February 15, 2023, after Bach accepted the new position, Buffum sent Walls an email with a revised job description for her current position reflecting the title change and the SPA-3 pay grade that was discussed with her in November 2022. The job description was dated November 1, 2022.

Walls responded to the email the next day, asserting that because the revised job description was dated November 1, 2022, MUD knew on that date that it was not going to select her for the new position. MUD denied this and explained that

November 1 was when Buffum started working on the revised job description for Walls' position. MUD also claimed that if Walls had been offered the new position, the job title for the "Supervisor, QA Customer Service" position would have still been changed.

After viewing the evidence adduced by MUD in the light most favorable to Walls and giving her the benefit of all reasonable inferences deducible from the evidence, we conclude MUD met its prima facie burden as the movant by producing enough evidence to show a nondiscriminatory reason for not promoting Walls to the new position.

(b) Walls Failed to Show Genuine Dispute of Material Fact

Once the moving party makes a prima facie case, the burden shifts to the nonmovant to produce evidence showing the existence of a material issue of fact that prevents judgment as a matter of law. *Clark v. Scheels All Sports*, 314 Neb. 49, 989 N.W.2d 39 (2023). Having determined that MUD met its prima facie burden by establishing a nondiscriminatory reason for its employment decision, the burden shifted to Walls to produce evidence creating a genuine issue of fact that MUD's reason for not promoting her was pretextual for the true discriminatory reason.

Walls' evidence, when viewed in the light most favorable to her as the nonmoving party, needed to create an inference in reasonable minds that MUD had discriminatory reasons in not promoting her and that MUD's explanation for promoting Bach was merely pretextual. See *O'Brien v. Bellevue Public Schools*, 289 Neb. 637, 856 N.W.2d 731 (2014).

[22-25] A "pretext" is found when the court disbelieves the reason given by an employer, allowing an inference that the employer is trying to conceal an impermissible reason for its action. See *id.* The employee may demonstrate pretext either by showing that the employer's explanation for its action is unworthy of credence, because it has no basis in fact, or by

persuading the court that a prohibited reason more likely motivated the employer. See *Hartley v. Metropolitan Util. Dist.*, 294 Neb. 870, 885 N.W.2d 675 (2016). The specific evidence presented to demonstrate discriminatory animus may vary, and its sufficiency will be considered as a whole. *Id.* Additionally, the Nebraska Supreme Court has stated that a plaintiff may demonstrate pretext by showing that

> (1) the employer's proffered reasons had no basis in fact, (2) the employer's proffered reasons were against the employer's policy or practice or involved other procedural irregularities, (3) the employer's proffered reasons have changed substantially over time or are inconsistent, (4) the plaintiff was the better qualified applicant, (5) the plaintiff had a laudable prior work history, (6) there was a sharp decline in the plaintiff's performance evaluations near the time of the employer's contested action, (7) the decisionmaker "'overplayed'" the chosen applicant's strengths, (8) the decisionmaker made statements expressing a discriminatory attitude, (9) statistical analysis demonstrating a pattern and practice of discrimination, (10) comparative evidence that similarly situated persons in a nonprotected class were treated more favorably, and (11) prior instances of disparate treatment of the plaintiff by the defendant in other contexts.

Id. at 897-98, 885 N.W.2d at 696-97.

As previously discussed, MUD presented evidence showing that its reason for hiring Bach over Walls was that Bach was more qualified. Walls contends this reason was pretextual because there was evidence she had worked for the customer service department twice as long as Bach; she had been in the "Supervisor, QA Customer Service" position for 12 years when the new position was announced; and she had a history of "laudable performance" as an employee for MUD. She also argues she was more qualified than Bach because he was not working in quality assurance or training at the time he was offered the new position and he had no training experience

with MUD. Rather, MUD relied on his training experience from a former employer. Walls further contends that the requirement that the candidate have experience in analyzing "multiple sources of data to provide data-driven recommendations for improved outcomes" was tailored to Bach's qualifications, since his job at the time the new position was posted was to analyze data. These allegations by Walls do not, by themselves, support an inference that MUD's stated reason for selecting Bach was a pretext for discrimination.

Walls also asserts that "the drafting of the job description[] was done for the very purpose of justifying the hiring of the younger, white, male for the position," brief for appellant at 21, and that there is "strong evidence," brief for appellant at 18, that her gender was the primary motivating factor in not promoting her to the new position. There is no evidence to support these allegations, as MUD presented evidence that out of the six candidates it interviewed, four were female. Further, a female candidate was ranked highest and was offered the new position. The new position was only offered to Bach after the female candidate withdrew her acceptance.

Walls further argues that the reason she did not meet the requirements for the new position was because they were deliberately changed to exclude her. She suggests that after MUD knew she planned to apply for the new position, it changed the requirements for the new position "to justify [MUD's] chosen male applicant." *Id*. There is no evidence to support these allegations.

Walls also claims there was evidence she had 3 years of training experience, contrary to MUD's determination she did not meet that requirement. She argues that MUD refused to consider that she was responsible for training and mentoring new associates in her current position. Walls also presented evidence of her positive performance evaluations and argues that the comments demonstrated she had experience in training. However, MUD's evidence showed that Walls coached employees and gave feedback on correct processes

and procedures in her current position and that it was apparent during her interview that she believed her experience in coaching would satisfy the training experience requirement. Buffum's affidavit explained that coaching and training are different. MUD's evidence also showed that unlike Bach, Walls had not conducted training on her own and had no experience developing training curriculums or programs. In addition to MUD's determination that Walls did not meet the requirement of having 3 years of training experience, it presented evidence that there were two other requirements Walls did not meet. Walls failed to present evidence to show that she did meet those requirements. For those same two requirements, Bach was rated as "Exceeds."

Walls also contends MUD had no intention of giving her the new position because when she was told about the new position, she was also told to think about a new job title for her position. She was also informed that her current position was going to change from an SPA-4 pay grade to an SPA-3 pay grade. However, as previously discussed, MUD presented evidence regarding the reason for changing Walls' current job title and the change in pay grade.

We conclude Walls failed to present evidence to create a genuine issue of material fact that MUD's stated position—that it promoted Bach because he was more qualified—was pretext for discrimination. Accordingly, Walls failed to meet her burden and the district court did not err in granting MUD's motion for summary judgment. Walls' second through fifth assignments of error related to the court's granting summary judgment fail.

3. MUD's Cross-Appeal

On cross-appeal, MUD assigns the district court erred in failing to find that Walls was unqualified for the new position and failing to find that the change to Walls' job title was not a demotion. The district court assumed without deciding that Walls' evidence was sufficient to demonstrate that she was a

qualified applicant. The district court also assumed without deciding that the change in job title was a demotion and found that MUD demonstrated a legitimate, nondiscriminatory reason for the job title change and pay grade change. It further found that Walls failed to create a genuine issue of material fact that MUD's reason for the changes was a pretext for discrimination and granted summary judgment on this claim.

[26] At oral argument before this court, MUD's counsel acknowledged that its assignments of error on cross-appeal were alternate theories of relief such that if we were to find that Walls' assignments of error failed, there would be no reason to address the issues raised on cross-appeal. Accordingly, we need not address MUD's cross-appeal. See *Schmuecker v. Lancaster County*, 321 Neb. 623, 36 N.W.3d 185 (2026) (appellate court is not obligated to engage in analysis not necessary to adjudicate case and controversy before it).

VI. CONCLUSION

Because we find that the district court did not err in granting summary judgment to MUD, we affirm.

AFFIRMED.