

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

VINCENT DENSON,	:	
	:	
Plaintiff,	:	CIVIL ACTION NO.
	:	
vs.	:	1:19-CV-5003-CC
	:	
DEKALB COUNTY SCHOOL	:	
DISTRICT,	:	
	:	
Defendant.	:	

ORDER

The above-styled action is before the Court on the Final Report and Recommendation (the “R&R”) [Doc. No. 67] issued by Chief Magistrate Judge Alan J. Baverman on July 27, 2021, and entered on the Court’s docket on July 28, 2021. In the R&R, Chief Magistrate Judge Baverman recommends that the Court grant Defendant’s Motion for Summary Judgment [Doc. No. 56]. On August 9, 2021, Defendant’s Limited Objection to the Magistrate Judge’s Report and Recommendation [Doc. No. 70] was filed. On August 10, 2021, Plaintiff’s Objections to Report and Recommendation [Doc. No. 71] were filed.

After reviewing a magistrate judge’s findings and recommendations submitted pursuant to 28 U.S.C. § 636(b)(1)(B), a district judge may accept, reject, or modify the findings or recommendations. 28 U.S.C. § 636(b)(1). A party

challenging a report and recommendation must “file . . . written objections which shall specifically identify the portions of the proposed findings and recommendation to which objection is made and the specific basis for objection.” Macort v. Prem, Inc., 208 F. App’x 781, 783 (11th Cir. 2006) (citation and internal quotation marks omitted); see also Fed. R. Civ. P. 72(b)(2). A district judge “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” Jeffrey S. v. State Bd. of Educ. of Ga., 896 F.2d 507, 512 (11th Cir. 1990) (citation omitted). The district judge must “give fresh consideration to those issues to which specific objection has been made by a party.” Id. “Frivolous, conclusive, or general objections need not be considered by the district court.” Marsden v. Moore, 847 F.2d 1536, 1548 (11th Cir. 1988) (citation omitted). Those portions of a report and recommendation to which an objection has not been made are reviewed for plain error. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983).

Here, the sole remaining claim in dispute is a claim by Plaintiff for sex discrimination in the hiring decision for the Assistant Principal position at Miller Grove Middle School in August 2018.¹ Chief Magistrate Judge Baverman finds in the R&R that Plaintiff failed to exhaust this claim, and he therefore recommends

¹ Plaintiff does not oppose the entry of summary judgment as to all other claims in the lawsuit.

that summary judgment be granted as to the sex discrimination claim. In the event that the undersigned disagrees regarding the finding of failure to exhaust, Chief Magistrate Judge Baverman recommends that the Court deny summary judgment as to the sex discrimination claim.

Plaintiff objects to the finding that he failed to exhaust his administrative remedies as to the claim for sex discrimination. Defendant objects to the alternative recommendation that summary judgment be denied, if the Court finds that Plaintiff did exhaust his administrative remedies with respect to the sex discrimination claim.

Having conducted a de novo review of the portion of the R&R to which Plaintiff objects, the Court agrees with Chief Magistrate Judge Baverman that Plaintiff failed to exhaust his administrative remedies with respect to the sex discrimination claim. Plaintiff's second EEOC charge was based only on retaliation, and no claim of sex discrimination could reasonably have been expected to grow out of the charge setting forth the facts related to the retaliation claim. The Court agrees with the entirety of Chief Magistrate Judge Baverman's analysis in this regard, and the brief arguments that Plaintiff makes in his objections do not persuade the Court to analyze the issue any differently or to reach a different decision. Given the Court's agreement with Chief Magistrate Judge Baverman's finding regarding exhaustion, the Court need not reach the

alternative recommendation that summary judgment be denied or Defendant's limited objection to that alternative recommendation.

Based on the foregoing and there otherwise being no plain error in the R&R, the Court **OVERRULES** Plaintiff's objections and **ADOPTS** the R&R [Doc. No. 67] as the decision of this Court. The Court **GRANTS** Defendant's Motion for Summary Judgment [Doc. No. 56] and **DIRECTS** the Clerk to mark this case closed.

SO ORDERED this 12th day of August, 2021.

s/ CLARENCE COOPER
CLARENCE COOPER
SENIOR UNITED STATES DISTRICT JUDGE