

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DAVID MICHAEL BURKETTE,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:07-CV-1121-WKW
)	
MONTGOMERY COUNTY)	
BOARD OF EDUCATION, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

On October 28, 2008, the Magistrate Judge filed a Report and Recommendation in this case. (Doc. # 30.) Plaintiff David Michael Burkette filed objections to the Recommendation on November 10, 2008. (Doc. # 31.) Upon an independent and *de novo* review of those portions of the Recommendation to which objections are made, 28 U.S.C. § 636(b)(1), it is ORDERED as follows:

- (1) Burkette’s objections are OVERRULED.
- (2) The Recommendation (Doc. # 30) is ADOPTED.
- (3) Defendants’ Motion for Summary Judgment (Doc. # 16) is DENIED in part and GRANTED in part.
- (4) All claims against Defendant Lewis E. Washington, Jr., in his official and individual capacities are DISMISSED with prejudice.
- (5) Burkette’s claims against Defendant Montgomery County Board of Education (“MCBOE”) under 42 U.S.C. § 1983 are DISMISSED with prejudice.

(6) Burkette's claims under 42 U.S.C. § 2000e-5 ("Title VII") against MCBOE related to the Athletic Director position are DISMISSED as time-barred.

(7) Burkette's Title VII race discrimination claim against MCBOE related to the Assistant Football Coach position is DISMISSED with prejudice for failure to establish a *prima facie* case.

(8) Defendants' motion for summary judgment is DENIED with respect to Burkette's Title VII retaliation claim against MCBOE related to the Assistant Football Coach position, and Burkette's claim shall proceed to trial.

DONE this 4th day of December, 2008.

 /s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE