

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

JOHN DYESS,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:07CV635-WKW
)	(WO)
AUBURN UNIVERSITY,)	
)	
Defendant.)	

ORDER

On August 13, 2008, the Magistrate Judge filed a Recommendation in this case. (Doc. # 40.) On August 21, 2008, Plaintiff John Dyess (“Dyess”) filed a Response to Summary Judgment Motion. (Doc. # 41.) Although Mr. Dyess’ response was submitted within the time period for filing objections to the Recommendation (Doc. # 40 at 28), Mr. Dyess does not address the Recommendation in his response. Rather, Mr. Dyess moves the court to enter summary judgment in his favor. (Doc. # 40 at 1.) Accordingly, the court construes Mr. Dyess’ Response to Summary Judgment Motion as containing a Motion for Summary Judgment. The court having conducted an independent and *de novo* review of the file in this case, it is ORDERED as follows:

1. Mr. Dyess’ Motion for Summary Judgment is DENIED on the merits and as untimely. (*See* Doc. # 26, § 2, Order setting dispositive motion deadline on June 6, 2008.)
2. The Recommendation of the Magistrate Judge is adopted.
3. Defendant Auburn University’s Motion for Summary Judgment (Doc. # 35) is GRANTED.

4. The court DECLINES to exercise supplemental jurisdiction over the state law claims, pursuant to 28 U.S.C. § 1367(c)(3), and the state law claims are DISMISSED without prejudice.

An appropriate judgment will be entered.

DONE this 2nd day of September, 2008.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE