

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

TERRY BUTLER,

Plaintiff,

v.

CASE NO. 1:10-cv-2561-PWG

CLEBURNE COUNTY
COMMISSION et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

The magistrate judge filed an order on January 17, 2012 (doc. 39), recommending that defendants' motions to dismiss (docs. 31 and 33) be GRANTED IN PART AND DENIED IN PART. Also on January 17, 2012, the parties were informed of their respective right to file objections to the magistrate's report and recommendation, but no such objections have been received.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the findings and recommendation and the objections filed by plaintiff, the Court is of the opinion that the magistrate judge's findings are due to be and are hereby ADOPTED and his recommendation is ACCEPTED.

In accordance with the same, the motion to dismiss filed by defendants the Cleburne County Water Authority, Jerry Vaughn, Roger Hand, Sam Britt, Chris

Jackson, and Joe Bill Conkle (doc. 31) is GRANTED IN PART and DENIED IN PART. Said motion is GRANTED to the extent that the plaintiff's claims against the individual defendants are DISMISSED WITH PREJUDICE. Plaintiff's claims for punitive damages are DISMISSED. Said motion is also GRANTED to the extent that Count IV of the plaintiff's complaint, for breach of contract, is DISMISSED.

Similarly the motion to dismiss filed by the Cleburne County Commission, the Cleburne County Commission D/B/A the Cleburne County Water Authority, Joel Robinson, Dwight Williamson, and Tracy Lambert (doc. 33) is GRANTED IN PART and DENIED IN PART. Said motion is GRANTED to the extent that the plaintiff's claims against the individual defendants are DISMISSED WITH PREJUDICE. Plaintiff's claims for punitive damages are DISMISSED. Said motion is also GRANTED to the extent that Count IV of the plaintiff's complaint, for breach of contract, is DISMISSED.

Said motions are DENIED on all other grounds raised. The remaining claims are:

1. ADEA age-discrimination based on plaintiff's discharge
2. ADEA retaliation based on plaintiff's discharge
3. FLSA overtime, to the extent the violation was willful

4. FLSA retaliation based on plaintiff's discharge, to the extent that any such violation was willful.

As to the foregoing it is SO ORDERED this the 14th day of June, 2012.

A handwritten signature in black ink, reading "Inge Prytz Johnson". The signature is written in a cursive style with a large, sweeping flourish at the end.

INGE PRYTZ JOHNSON
U.S. DISTRICT JUDGE