

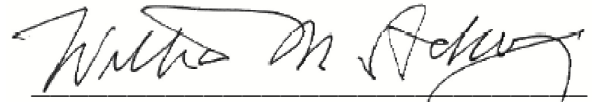
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

| | | |
|--------------------------|---|------------------|
| RICHARD HOLLEY, | } | |
| | } | |
| Plaintiff, | } | |
| | } | CIVIL ACTION NO. |
| v. | } | |
| | } | 2:14-CV-2277-WMA |
| GIBCO CONSTRUCTION, LLC, | } | |
| | } | |
| Defendant. | } | |

MEMORANDUM OPINION

In its order of May 18, 2015 (Doc. 19), the court required plaintiff to file an amended complaint in which he amends his retaliation claim in Count II to allege but-for causation and in which he dismisses his Count III claim of race discrimination. The court informed plaintiff that if he did not comply his Count II claim of retaliation would be dismissed. Plaintiff filed an amended complaint on May 26 (Doc. 20). As noted by defendant in its answer (Doc. 21) to the amended complaint, plaintiff now alleges that retaliation for his protected activity was the "but-for" cause of his termination, but he did not formally dismiss his claim of race discrimination. The court finds that by alleging retaliation to be the "but-for" cause of his discharge (the **only** cause), he effectively abandoned his claim in Count III just as if he had formally dismissed it. In other words, the court deems plaintiff to have complied with the order of May 18, 2015. Accordingly, the action as contained in Count III will be dismissed with prejudice on plaintiff's abandonment of it. A separate order will be entered.

DONE this 30th day of June, 2015.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE