

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

BIBB COUNTY SCHOOL DISTRICT,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 5:16-CV-549 (MTT)
)	
)	
ROMAIN DALLEMAND, et al.,)	
)	
Defendants.)	

ORDER

Pursuant to Federal Rule of Civil Procedure 37, Plaintiff Bibb County School District (“BCSD”) has moved to compel discovery from Defendant Romain Dallemand. Doc. 322. Dallemand has not filed a response. At his March 13, 2019 deposition, Dallemand invoked his Fifth Amendment privilege against self-incrimination and refused to answer questions. Doc. 322-1 at 4. While the fact that “the privilege is raised in a civil proceeding rather than a criminal prosecution does not deprive a party of its protection,” that privilege is not absolute. *Wehling v. Columbia Broadcasting Sys.*, 608 F.2d 1084, 1086 (5th Cir. 1979) (citations omitted).¹ That is particularly true when there is no longer a “threat of criminal liability” and when “the sentence has been fixed and the judgment of conviction has become final.” See *id.* at 1087; *Mitchell v. United States*, 526 U.S. 314, 326 (1999) (citation omitted).

¹ The Eleventh Circuit has adopted as binding precedent all decisions of the former Fifth Circuit rendered prior to October 1, 1981. *Bonner v. Prichard*, 661 F.2d 1206, 1209 (11th Cir.1981).

As BCSD points out, Dallemand's sentence was fixed and his judgment of conviction became final on February 28, 2019. Doc. 322-1 at 5. Dallemand's approved plea agreement also provides that the Government will not prosecute Dallemand for "any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, arising out of [Dallemand's] employment at the Bibb County School District in Macon, Bibb County, Georgia or related to the conduct giving rise to this plea agreement." Doc. 136-3 at 3. Therefore, Dallemand has "no basis" for asserting the privilege. *Mitchell*, 526 U.S. at 326.

Accordingly, BCSD's motion to compel discovery (Doc. 322) is **GRANTED**. Dallemand shall answer questions asked at the next noticed deposition. The failure to do so will result in the dismissal of Dallemand's responsive pleadings.

SO ORDERED, this 9th day of May, 2019.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT