

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 10-11005-GAO

ROBERT J. GALLAGHER,  
Plaintiff,

and

TOWN OF BARNSTABLE, BARNSTABLE SCHOOL DISTRICT, BARNSTABLE  
SCHOOL COMMITTEE, PATRICIA GRENIER, PATRICIA GRAVES, and  
KENNETH W. VAN COR,  
Defendants.

ORDER

March 19, 2012

O'TOOLE, D.J.

The defendants in this employment discrimination case have moved to dismiss some of the claims brought by the plaintiff. After review of the parties' submissions, the motion is granted.

The state law claims in Counts I, II, and III are precluded by the existence of a remedy under Mass. Gen. Laws ch. 151B. The plaintiff has set forth claims under that statute in Counts IV and V.

The claims under Title VII that are asserted against the individual defendant Van Cor in Counts VI and VII are precluded because it is settled that Title VII does not authorize suits against supervisory employees in their individual capacities. See Fantini v. Salem State College, 557 F.3d 22, 28 (1<sup>st</sup> Cir. 2009). Counts VI and VII stand as against the School District.

Finally, the plaintiff has not adequately pled a claim for interference with his First Amendment rights. See Garcetti v. Ceballos, 547 U.S. 410 (2006). On the account given

by the plaintiff in the complaint, the adverse employment actions predated his public statements on the matter. For that reason, the adverse actions could not have been in retaliation for what had not yet occurred. Count VIII fails to state a claim.

Accordingly, the motion (dkt. no. 13) is GRANTED as to counts I, II, III, and VIII and DENIED as to count IV and V. Counts VI and VII are dismissed as against Van Cor.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.  
United States District Judge