IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MAGDALENA VARGO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:15CV00520 AGF
	)	
CITY OF ST. LOUIS, MARY HART BURTON, and FRANK OSWALD,	)	
	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

This employment discrimination case is before the Court on review of the record. In her complaint, Plaintiff Magdalena Vargo claims that Defendants' failure to hire her for a zoning supervisor position in September 2011 was based on age discrimination and retaliation, in violation of the Age Discrimination in Employment Act ("ADEA") (Counts I and II), and retaliation in violation of Title VII of the Civil Rights Act of 1964 (Count III), and constituted intentional infliction of emotional distress under state common law (Count IV). By Order dated July 10, 2015, the Court denied Defendants' motion to dismiss the complaint, rejecting Defendants' argument that Plaintiff's claims were barred by res judicata. (Doc. No. 16.) The Court did not address Defendants' additional argument that Defendants Mary Hart Burton and Frank Oswald cannot be held individually liable under the ADEA or Title VII.

Plaintiff did not address this argument in her response to the motion to dismiss. At the Rule 16 scheduling conference held on August 26, 2015, the Court gave Plaintiff another opportunity to do so, until September 1, 2015. Plaintiff has not filed a response in the time allowed, nor sought an extension of time to do so. The Court now concludes that, as argued by Defendants, Burton and Oswald cannot be held liable under the ADEA or Title VII. *See Jackson v. Mills Props.*, No. 4:11CV419SNLJ, 2011 WL 3607920, at *4 (E.D. Mo. Aug. 12, 2011) ("It is well-established in this district and the Eighth Circuit, that there is no individual liability under Title VII and/or the ADEA.").

Accordingly,

IT IS HEREBY ORDERED that Defendants' motion to dismiss the case is **GRANTED** in part. The motion is granted with respect to Plaintiff's claims under the ADEA and Title VII against Defendants Mary Hart Burton and Frank Oswald. (Doc. No. 9.)

Audrey G. Fleissig

AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 4th day of September, 2015.