[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

No. 22-10177

Non-Argument Calendar

DR. ISAAC BRUNSON,

Plaintiff-Appellant,

versus

DEKALB COUNTY SCHOOLS,

Defendant-Appellee,

DR. R. STEPHEN GREEN et al.,

Defendants.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:19-cv-03819-WMR

Before WILSON, LUCK, and BLACK, Circuit Judges.

PER CURIAM:

Isaac Brunson, proceeding *pro se*, appeals (1) the magistrate judge's orders partially granting Brunson's motion for an extension and denying Brunson's motion for sanctions; (2) the district court's order dismissing Stephen Green, Linda Woodard, Angelica Collins, and Jocelyn Harrington (the individual defendants); and (3) the district court's order granting summary judgment in favor of DeKalb County Schools (DCS) on his claim of age discrimination in hiring. Brunson asserts several issues on appeal, which we address in turn.

I. MAGISTRATE JUDGE'S ORDERS

To the extent Brunson is challenging on appeal the magistrate judge's February 18, 2021, order partially granting his motion for an extension of discovery and May 4, 2021, order denying his motion for sanctions against DCS related to that motion, we lack jurisdiction. *See Wood v. Raffensperger*, 981 F.3d 1307, 1313 (11th Cir. 2020) (stating we review our own jurisdiction *de novo*). In *United States v. Renfro*, we dismissed for lack of jurisdiction the part of an appeal that challenged a magistrate judge's pretrial discovery ruling because the appellant failed to timely object to the

ruling before the district court. 620 F.2d 497, 500 (5th Cir. 1980).[1] It reasoned the defendant was "[i]n essence . . . appealing a magistrate's decision directly to this Court," and emphasized that "[t]he law is settled that appellate courts are without jurisdiction to hear appeals directly from federal magistrates." *Id.* We have continued to apply *Renfro* as a jurisdictional rule. *United States v. Brown*, 342 F.3d 1245, 1246 (11th Cir. 2003).

Brunson did not appeal either of these magistrate judge's orders to the district court. Accordingly, we lack jurisdiction to review these orders.

II. INDIVIDUAL DEFENDANTS

Brunson asserts the district court improperly dismissed the individual defendants because they, as administrators, were agents of DCS and could be sued under the Age Discrimination in Employment Act of 1967 (ADEA).

The district court did not err in dismissing the claims against the individual defendants. *See Hill v. White*, 321 F.3d 1334, 1335 (11th Cir. 2003) (reviewing a district court's ruling on a Rule 12(b)(6) motion *de novo*). The ADEA makes it unlawful for an employer to refuse to hire, discharge, or otherwise discriminate against an individual at least 40 years old with respect to

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[1] In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), this Court adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to close of business on September 30, 1981.

compensation, terms, conditions, or privileges of employment. *See* 29 U.S.C. §§ 623(a)(1), 631(a). We have acknowledged that employees may not be sued in their individual capacities under the ADEA. *Smith v. Lomax*, 45 F.3d 402, 403 n.4 (11th Cir. 1995). Additionally, Brunson's claims against the individual defendants in their official capacities were unnecessary and redundant because he also filed the same claims against DCS. *See Busby v. City of Orlando*, 931 F.2d 764, 776 (11th Cir. 1991) (noting suits against government officials and the government unit are "functionally equivalent," and, accordingly, suits against individuals in their official capacities are unnecessary because the governmental unit can be sued directly).

III. SUMMARY JUDGMENT

Brunson contends the district court improperly granted summary judgment for DCS because there was a genuine issue of material fact as to whether Harrington knew of his application for the open teacher position and when she became aware of Brunson's application. He also argues he established a "convincing mosaic" of age discrimination because he showed that Harrington knew of his interest in the open position and that another older applicant was told to avoid interviewing with Harrington.

A. Pretext

Brunson failed to show DCS's proffered reason for not hiring him was pretextual. *See Sims v. MVM, Inc.*, 704 F.3d 1327, 1332 (11th Cir. 2013) (explaining in an ADEA action relying on

circumstantial evidence, a plaintiff may establish age discrimination through the *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802-03 (1973), burden-shifting framework—if a plaintiff establishes a *prima facie* case of discrimination, and the employer articulates a legitimate, nondiscriminatory reason for its action, the employee then bears the burden to show that the employer's reason is a pretext for discrimination). DCS's proffered nondiscriminatory reason for not hiring Brunson was that Harrington was unaware of Brunson's application for the open music teacher position until after she had already decided to hire John Jeffrey Jenkins for the position. Harrington stated she interviewed Jenkins on January 18, pulled applications for the last time on January 30, told Human Resources she wanted to hire Jenkins on February 13, learned of Brunson's interest in the position through his handwritten letter on February 19, and confirmed with Human Resources that she wanted to hire Jenkins on February 20. Brunson's evidence failed to contradict Harrington's testimony because he presented evidence he told Radika Brown, not Harrington, of his interest in the position before February 19 and only expressed his interest directly to Harrington for the first time on February 19. Brunson's claim that Harrington should have checked the online application portal daily fails to show she actually checked it daily and does not contradict Harrington's testimony. Harrington and Brunson agree she learned of his interest in the open position on February 19, but at that point, Harrington was in the final stages of solidifying Jenkins's application so he could be hired.

Brunson testified he submitted a letter to Harrington on February 19 expressing his interest in interviewing for the open position and that Harrington told him in her office the next day to return the following day to interview with her, which was the same day Harrington finalized the hire of Jenkins. While Harrington testified she did not recall that conversation with Brunson, Brunson's testimony, construed in the light most favorable to him, supports a finding that Harrington learned Brunson applied for the position before she hired Jenkins. Even if this calls into question the truthfulness of DCS's proffered reason, Brunson also had to show that DCS's true reason for the hiring decision was age discrimination in order to prove pretext, which he failed to do. *See St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502, 515 (1993) (stating to establish pretext, the plaintiff must show that: (1) the reason offered was false; and (2) discrimination was the real reason for the employer's actions); *Flowers v. Troup Cnty., Ga., Sch. Dist.*, 803 F.3d 1327, 1337-38 (11th Cir. 2015) (stating even if a plaintiff's evidence supports an inference the proffered reason is "pretext of *something*," summary judgment is appropriate if the plaintiff does not produce evidence the reason was pretext of discrimination).

B. Convincing Mosaic

Despite Brunson's arguments a jury should decide whether he pieced together a "convincing mosaic," the district court, at the summary judgment stage, had the authority to determine whether he sufficiently pieced together a "convincing mosaic." *See Smith v. Lockheed-Martin Corp.*, 644 F.3d 1321, 1328 (11th Cir. 2011)

(providing a plaintiff may also survive summary judgment by presenting "a convincing mosaic" of circumstantial evidence that supports a reasonable inference that the employer intentionally discriminated against him). And the district court did not err in concluding he failed to do so. *See Lewis v. City of Union City*, 934 F.3d 1169, 1185 (11th Cir. 2019) (stating a "convincing mosaic" may exist where evidence shows, among other things, "(1) suspicious timing, ambiguous statements, and other bits and pieces from which an inference of discriminatory intent might be drawn, (2) systematically better treatment of similarly situated employees, and (3) that the employer's justification is pretextual" (quotation marks and ellipsis omitted)). Brunson showed he was qualified for the position, he was in a protected class, and Harrington knew of his application once she received his letter. Brunson also presented an anecdote of an older applicant who was told to go around Harrington. These "bits and pieces," however, are not enough to support an inference of discrimination. *See id.* Brunson's evidence did not show pretext, ambiguous statements, suspicious timing, or a systematic pattern of discrimination. *See id.* Brunson's qualifications, Harrington learning of his application after she made up her mind to hire Jenkins, and the anecdote about an older applicant are not sufficient to piece together a "convincing mosaic" of age discrimination.

Accordingly, the district court did not err in granting summary judgment to DCS on Brunson's ADEA claim. *See Alvarez v. Royal Atl. Developers, Inc.*, 610 F.3d 1253, 1263 (11th Cir. 2010)

(stating we review the grant of summary judgment *de novo*, applying the same legal standards as the district court).

DISMISSED IN PART, AFFIRMED IN PART.