[DO NOT PUBLISH]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.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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July 06, 2023

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 22-10177-JJ
Case Style: Isaac Brunson v. DeKalb County Schools
District Court Docket No: 1:19-cv-03819-WMR

All counsel must file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Although not required, non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing are available on the Court's website.
Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Pursuant to Fed.R.App.P. 39, costs taxed against the appellant.

Please use the most recent version of the Bill of Costs form available on the court's website at www.ca11.uscourts.gov.

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OPIN-1A Issuance of Opinion With Costs

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DR. ISAAC BRUNSON,

Plaintiff,

v.

DEKALB COUNTY SCHOOLS,

Defendant.

CIVIL ACTION NO.
1:19-cv-03819-WMR-RDC

FINAL REPORT AND RECOMMENDATION

This is an employment-discrimination case. Plaintiff Dr. Isaac Brunson, proceeding *pro se*, sued Defendant DeKalb County Schools ("DCS") alleging unlawful failure-to-hire in violation of the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. §§ 621, *et seq*. Before the Court is DCS's Motion for Summary Judgment, (Doc. 100).

For the reasons below, the undersigned respectfully **RECOMMENDS** that DCS's Motion for Summary Judgment be **GRANTED**.

I. BACKGROUND

A. Factual Background[1]

This case concerns Dr. Brunson's unsuccessful application in 2019 for an open music teacher position at Pleasantdale Elementary School, which is operated by DCS. The parties agree that Pleasantdale's principal, Jocelyn Harrington, was solely responsible for the hiring decision at issue. (Def. SMF ¶¶ 26, 29; Pl. Resp. ¶¶ 26, 29). The timing of key events is important in this case.

i. Dr. Brunson's Application

Dr. Brunson, aged 63, electronically applied for the music teacher position at Pleasantdale on February 8, 2019. (Def. SMF ¶ 33; Pl. SMF ¶ 3). Dr. Brunson was initially hired by DCS as a substitute teacher the previous summer and worked at Pleasantdale between January 2019 and May 2019, primarily teaching music classes. (Def. SMF ¶ 5; Pl. SMF ¶¶ 1–2). He learned of the open position soon after he started his substitute assignment. (Doc. 108-2 at 24). Dr. Brunson is well-educated—he earned four degrees in music performance, including a doctoral degree in music arts. (Pl. SMF ¶ 28). He also holds a teaching license and has prior experience teaching

[1] The relevant facts are taken from the parties' respective statements of material facts, (Doc. 100-9 ["Def. SMF"]; Doc. 110 ["Pl. SMF"]), and responses thereto, (Doc. 113 ["Def. Resp."]; Doc. 109 ["Pl. Resp."]), together with other portions of the record as appropriate. DCS's witnesses have contested elements of Dr. Brunson's version of events, but where the parties offer conflicting accounts of the events in question, the undersigned draws all inferences and presents all evidence in the light most favorable to Dr. Brunson as the non-moving party. *See Hamilton v. Southland Christian Sch., Inc.*, 680 F.3d 1316, 1318 (11th Cir. 2012).

music education in secondary and post-secondary school. (*Id.*).

According to Dr. Brunson, in the days following his application—specifically, between February 8–14, 2019—he repeatedly told Radika Brown, the Pleasantdale registrar, that he wanted to interview for the music teacher position with Principal Harrington. (Def. SMF ¶ 34; Pl. SMF ¶ 4). However, neither Ms. Brown nor Principal Harrington recall any discussion between them regarding Dr. Brunson's interest in and application for the position. *See* (Doc. 100-7 at 8–9, 15–16; Doc. 100-8 at 28, 36–37). It is worth noting that although Ms. Brown is Principal Harrington's subordinate, she is not Principal Harrington's secretary and had no involvement with job postings, interviews, or hiring. (Def. SMF ¶ 31).

Later, on February 19, 2019, Dr. Brunson gave Ms. Brown a handwritten letter addressed to Principal Harrington, which she placed in Principal Harrington's mailbox. (Def. SMF ¶ 37; Pl. SMF ¶ 5; Doc. 100-2 [Pl. Dep.], Ex. 7). In the letter, Dr. Brunson formally requested an interview for the music teacher position. (Def. SMF ¶ 38; Pl. Dep., Ex. 7). He also explained that he had applied for the position on February 8 and, in the meantime, had been "asking [her] secretary"— alluding to Ms. Brown—to be scheduled for an interview. (Def. ¶ 39; Pl. Dep., Ex. 7). Dr. Brunson admits that he did not directly ask Principal Harrington for an interview before the February 19 letter, however. (Def. SMF ¶ 40). And Principal Harrington testified that she first learned of Dr. Brunson's interest only after reading his letter.

(Def. SMF ¶ 44).

Nevertheless, according to Dr. Brunson, on February 20, 2019, while he and Principal Harrington were discussing a separate student issue, she told him to come back the next day, February 21, to interview for the position. (Def. SMF ¶ 41; Pl. SMF ¶ 7). When Dr. Brunson returned the following day, however, he was unable to locate Principal Harrington. He was not interviewed and, although he made further inquiries to Ms. Brown, he never discussed the position with Principal Harrington again. (Def. SMF ¶¶ 36, 42; Pl. SMF ¶ 8; Doc. 108-2 at 26). Around this same time, Dr. Brunson spoke with another Pleasantdale teacher who said that Principal Harrington previously refused to interview her for an open position due to age, although that teacher was ultimately hired. (Pl. Dep. at 33–35).

ii. The Open Position and Hire

In early January 2019, a music teacher position opened at Pleasantdale after the then-current teacher, who was out on maternity leave, resigned. (Def. SMF ¶ 7). On January 7, 2019, Principal Harrington contacted Arthur Reese, a DCS Human Resources manager, to request a job posting for the position. (Def. SMF ¶ 8). Days later, on January 14, 2019, the position was posted on DCS's electronic application system, referred to as "PATS." (Def. SMF ¶ 9).

On January 16, 2019, John Jenkins applied for the open music position and, shortly after, on January 18, he was interviewed by Principal Harrington. (Def. SMF

¶ 11). Principal Harrington was impressed by Mr. Jenkins's prior experience working with young children, superior references, and interview demeanor. (Def. SMF ¶ 14). Within days, by January 22, 2019, Principal Harrington contacted Mr. Reese about hiring Mr. Jenkins. (Def. SMF ¶ 15). She wanted to hire Mr. Jenkins that month but he had not yet submitted all of the required application paperwork (*e.g.*, academic transcripts), so Human Resources advised her to wait a bit longer to see if anyone else applied. (Def. SMF ¶ 16; Doc. 100-3, Ex. 4). Principal Harrington obliged.

On January 30, 2019, Principal Harrington logged into PATS and pulled a list of six applicants as of that date. (Def. SMF ¶¶ 17–18; Doc. 100-3, Ex. 3). The PATS system does not automatically notify users when new applications are submitted; instead, users—like Principal Harrington—must log into the system to check for new applications. (Def. SMF ¶ 10). Dr. Brunson did not appear on the list of applicants that Principal Harrington pulled that day because, as noted above, Dr. Brunson did not electronically apply for the position until more than a week later, on February 8, 2019. (Def. SMF ¶¶ 19, 33; Pl. SMF ¶ 3; Doc. 100-3, Ex. 3). After January 30, 2019, Principal Harrington did not log back into PATS to see if there were any additional applicants for the music teacher position. (Def. SMF ¶ 27). From the list of applicants, Principal Harrington interviewed two additional candidates on February 6, 2019, and one more on February 11. (Def. SMF ¶ 20). After these

additional interviews, she still wanted to hire Mr. Jenkins based on his qualifications and interview performance. (Def. SMF ¶ 21).

On February 13, 2019, Principal Harrington and Mr. Jenkins exchanged emails about finalizing his recommendation for hire. (Def. SMF ¶ 22; Doc. 100-3, Ex. 6). A week later, on February 20, 2019, after Mr. Jenkins submitted all required documentation, Principal Harrington confirmed with Human Resources that she wanted to hire him for the job. (Def. SMF ¶ 23). And on February 21, 2019, Mr. Reese officially offered the music teacher position to Mr. Jenkins. (Def. SMF ¶ 24). He accepted that day. (Def. SMF ¶ 25).

Meanwhile, because Dr. Brunson reached the maximum number of teaching days permitted for substitutes in February 2019, he had taken a short break from teaching at Pleasantdale through the end of that month. (Def. SMF ¶ 43; Pl. SMF ¶ 10). When he returned in March 2019, he learned that the music teacher position had been filled. (*Id.*).

B. Procedural Background

On March 8, 2019, Dr. Brunson filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC"). (Def. SMF ¶ 1; Pl. SMF ¶ 11; Pl. Dep., Ex. 4). On June 6, 2019, the EEOC issued a right-to-sue letter. (Def. SMF ¶ 4; Pl. SMF ¶ 12; Pl. Dep., Ex. 5). Less than ninety days later, Dr. Brunson initiated this action asserting age-discrimination and retaliation claims against DCS

and several school officials. (Doc. 1). Defendants promptly moved to dismiss and, following a recommendation from the undersigned, District Judge William M. Ray, II ordered the dismissal of all claims save one—Dr. Brunson's claim that DCS refused to hire him for the Pleasantdale Elementary music teacher position in violation of the ADEA. (Docs. 11, 39, 43).

DCS now moves for summary judgment with respect to the sole remaining claim. (Doc. 100). The motion is ripe for review.

II. LEGAL STANDARD

A reviewing court "shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The party moving for summary judgment "bears the initial burden to show the district court, by reference to materials on file, that there are no genuine issues of material fact that should be decided at trial." *Clark v. Coats & Clark, Inc.*, 929 F.2d 604, 608 (11th Cir. 1991); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Those materials may include "depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials." Fed. R. Civ. P. 56(c)(1)(A). "Only when that burden has been met does the burden shift to the non-moving party to demonstrate that there is indeed a material issue of fact that precludes summary

judgment." *Clark*, 929 F.2d at 608.

The non-moving party is then required "to go beyond the pleadings" and present competent evidence "showing that there is a genuine issue for trial." *Celotex*, 477 U.S. at 324 (quotation marks omitted). Generally, "[t]he mere existence of a scintilla of evidence" supporting the non-movant's case is insufficient to defeat a motion for summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252 (1986). If, in response, the non-moving party does not sufficiently support an essential element of her case as to which she bears the burden of proof, summary judgment is appropriate. *Rice-Lamar v. City of Ft. Lauderdale, Fla.*, 232 F.3d 836, 840 (11th Cir. 2000).

Genuine issues in dispute are those for which "the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson*, 477 U.S. at 248. "In determining whether genuine issues of material fact exist, [the reviewing court] resolve[s] all ambiguities and draw[s] all justifiable inferences in favor of the non-moving party." *Rice-Lamar*, 232 F.3d at 840 (citing *Anderson*, 477 U.S. at 255). When the record "taken as a whole" could not lead a rational trier of fact to find for the non-movant, however, there is no "genuine issue for trial." *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

III. DISCUSSION

DCS argues that Dr. Brunson cannot sustain his claim, for two reasons. First, he failed to establish a prima facie case of age discrimination because he did not introduce evidence to show that Mr. Jenkins, who was hired for the music teacher position, was "substantially younger" than himself. Second, in any event, DCS maintains that it presented unrebutted evidence of a legitimate, non-discriminatory reason for not hiring Dr. Brunson —namely, that Principal Harrington was unaware of his application at the time she made her final hiring decision. (Doc. 100-1). In response, Dr. Brunson insists that Mr. Jenkins was indeed substantially younger. In addition, he argues that Principal Harrington cannot claim ignorance of his application because she deliberately evaded his efforts—both online and through Ms. Brown—to secure an interview for the position. (Doc. 108-1).

The ADEA makes it unlawful for employers "to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age." 29 U.S.C. § 623(a)(1). A plaintiff can prove age discrimination through either direct or circumstantial evidence. *Sims v. MVM, Inc.*, 704 F.3d 1327, 1332 (11th Cir. 2013). Here, Dr. Brunson has pled no facts to suggest direct evidence of age discrimination, thus the Court must consider whether he has presented sufficient circumstantial evidence to move forward.

Circumstantial evidence of disparate treatment is traditionally evaluated under the *McDonnell Douglas* burden-shifting framework. *See McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973); *accord Sims*, 704 F.3d at 1332–33. Under this framework, the aggrieved employee may create a rebuttable presumption of unlawful discrimination by first establishing a prima facie case. *See Lewis v. City of Union City*, 918 F.3d 1213, 1222 (11th Cir. 2019) (*en banc*). To make out a prima facie case of discriminatory failure-to-hire under the ADEA, the plaintiff must show four things: (1) that he was at least forty years of age; (2) that he was not hired; (3) that a substantially younger person filled the position he sought; and (4) that he was qualified to do the job for which he was rejected. *See Kragor v. Takeda Pharm. Am., Inc.*, 702 F.3d 1304, 1308 (11th Cir. 2012); *see also* 29 U.S.C. § 631(a). In this context, "substantially younger" generally refers to someone at least three years younger than the plaintiff. *See Cooper v. Georgia Dep't of Transp.*, 837 F. App'x. 657, 670 (11th Cir. 2020) (citing *Carter v. DecisionOneCorp.*, 122 F.3d 997, 1003 (11th Cir. 1997)).

Once a prima facie case is established, the burden then shifts to the employer to articulate a legitimate, non-discriminatory reason for its action. *Kragor*, 702 F.3d at 1308. The burden at this stage—one of *production only* rather than *persuasion*—is "exceedingly light." *Vessels v. Atlanta Indep. Sch. Sys.*, 408 F.3d 763, 770 (11th Cir. 2005). The employer need not persuade the court that it was actually motivated

by the proffered reasons—instead, "[s]o long as the employer articulates 'a clear and reasonably specific' non-discriminatory basis for its actions, it has discharged its burden of production." *Id.* (citation omitted).

If the employer meets its burden, the presumption of discrimination "drops out of the case entirely, and the plaintiff bears the burden of demonstrating that the employer's proffered reasons for its decision were pretextual." *Id.* at 768. To show pretext, a plaintiff must show both that an employer's reasons are false *and* that intentional discrimination was "the real reason." *Springer v. Convergys Customer Mgmt. Grp. Inc.*, 509 F.3d 1344, 1349 (11th Cir. 2007). Moreover, in an ADEA case, that means the plaintiff must proffer evidence sufficient to permit a reasonable factfinder to conclude that age discrimination was the "but-for" cause of the employer's action. *See Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167, 177 (2009).

Although the *McDonnell Douglas* framework is one way of showing discriminatory intent, it is not the only way. *See Sims*, 704 F.3d at 1333; *Smith v. Lockheed-Martin Corp.*, 644 F.3d 1321, 1328 (11th Cir. 2011). "[T]he plaintiff will always survive summary judgment if he presents circumstantial evidence that creates a triable issue concerning the employer's discriminatory intent." *Smith*, 644 F.3d at 1328. "A triable issue of fact exists if the record, viewed in a light most favorable to the plaintiff, presents 'a convincing mosaic of circumstantial evidence that would allow a jury to infer intentional discrimination by the decisionmaker.'"

Id. (internal footnote and citation omitted).

Here, the undersigned concludes that Dr. Brunson neither made out a prima facie case of age discrimination, nor did he successfully rebut DCS's legitimate explanation for Principal Harrington's hiring decision. In any event, he has not established a triable issue of fact regarding Principal Harrington's intent.

First, with respect to his prima facie case, Dr. Brunson has not shown with competent evidence that Mr. Jenkins was substantially younger than himself. Dr. Brunson admitted at his deposition that he did not know how old Mr. Jenkins was, stating only that he "assume[d]" he was younger than forty based on "appearance." (Pl. Dep. at 24–25). Dr. Brunson did not depose Mr. Jenkins and does not appear to have requested any admissions or documentary proof regarding Mr. Jenkins's age. While Dr. Brunson has attached to his response what appear to be Facebook and LinkedIn screenshots indicating that Mr. Jenkins was under the age of thirty-five at the time of hire, *see* (Doc. 108-2 at 89–98), these items are not properly authenticated and must be excluded from consideration. *See* Fed. R. Evid. 901 (a) ("To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is."); *see also Macuba v. Deboer*, 193 F.3d 1316, 1324–25 (11th Cir. 1999) (explaining that although evidence otherwise admissible may be accepted in an inadmissible form at the summary judgment stage, hearsay evidence that does not

qualify for an exception could not be reduced to admissible form). Dr. Brunson has provided no evidence—not even his own affidavit testimony—by which the Court can determine whether the screenshots were actually taken from those websites, or whether the pictures and biographical data depicted therein actually relate to Mr. Jenkins. *See MSP Recovery Claims, Series LLC v. Am. Nat'l Prop. & Cas. Co.*, --- F. Supp. 3d ----, 2021 WL 3163274, at *6 (S.D. Fla. July 22, 2021) (excluding website screenshot for lack of authenticity). Although DCS concedes the other elements of Dr. Brunson's prima facie case, they correctly argue that, due to his omission of evidence regarding Mr. Jenkins's age, he has failed to meet his initial burden to support an inference of age discrimination.

Next, even assuming arguendo that Dr. Brunson satisfied the prima facie elements, he has not introduced sufficient evidence to show that DCS's legitimate hiring explanation is pretextual. On this score, the Court must bear in mind that its role is not to "second guess non[-]discriminatory business judgments." *Flowers v. Troup Cnty., Ga., Sch. Dist.*, 803 F.3d 1327, 1338 (11th Cir. 2015). Indeed, an employer may fire or, as relevant here, refuse to hire an employee for "a good reason, a bad reason, a reason based on erroneous facts, or for no reason at all, as long as its action is not for a discriminatory reason." *Id.* Accordingly, as noted above, the employer's burden to present a legitimate reason for its action is "exceedingly light." *Vessels*, 408 F.3d at 770. In this case, DCS has met that burden.

According to Principal Harrington, who Dr. Brunson concedes was the sole decisionmaker at issue, she did not interview or select him for the position because by the time she learned of his interest (on or about February 20, 2019) she had already selected Mr. Jenkins and was in the process of finalizing the hire. *See* (Def. SMF ¶¶ 22, 44). Principal Harrington's testimony is corroborated by contemporaneous email exchanges with both Mr. Jenkins and Mr. Reese, the DCS Human Resources manager. *See* (Def. SMF ¶¶ 22–23). And Dr. Brunson does not actually dispute this point. *See* (Def. SMF ¶ 46; Pl Resp. ¶ 46 ("If Principal Harrington had not already decided to hire Mr. Jenkins, she would have had plenty [of] time to look at other candidates to interview.")). Dr. Brunson nevertheless suggests that Principal Harrington had to have known about his application beforehand because he repeatedly expressed his interest in the position to Ms. Brown after he applied online on February 8, 2019. However, there is no evidence showing that Ms. Brown relayed any of her conversations with Dr. Brunson to Principal Harrington. *See* (Doc. 100-7 at 8–9, 15–16; Doc. 100-8 at 28, 36–37). Moreover, while Dr. Brunson argues that Principal Harrington would have discovered his electronic application sooner had she checked the PATS system more regularly before February 19, 2019, the undisputed fact remains that she last checked PATS on January 30, 2019, *before* he applied. *See* (Def. SMF ¶ 27; Pl. Resp. ¶ 27 (failing to adequately rebut this fact pursuant to LR 56.1(B)(2)(a)(2), NDGa.)). Even if she

should have checked PATS more regularly, as Dr. Brunson contends, "bureaucratic mistakes" alone do not support an inference of discrimination. *See Schoenfeld v. Babbitt*, 168 F.3d 1257, 1269 (11th Cir. 1999).

Finally, recognizing that satisfaction of the *McDonnell Douglas* framework is not the only way to survive a motion for summary judgment, the undersigned further concludes that Dr. Brunson has not pieced together a "convincing mosaic" of evidence to sustain his claim. Even adding Dr. Brunson's exemplary qualifications and his testimony regarding another teacher's alleged past age discrimination to the evidentiary mix discussed above, he has not presented sufficient proof to permit a reasonable factfinder to conclude that, but for his age, he would have been selected. Regarding his qualifications, Dr. Brunson insists that he was more qualified than Mr. Jenkins. Perhaps. But it is not the Court's duty to "decid[e] whom as between two candidates an employer *should* have hired." *Kidd v. Mando Am. Corp.*, 731 F.3d 1196, 1206 (11th Cir. 2013). Instead, Dr. Brunson must show that the disparities between his qualifications and those of Mr. Jenkins "were of such weight and significance that no reasonable person, in the exercise of impartial judgment, could have chosen [Mr. Jenkins] over [himself]." *Id.* (quotation and citation omitted). Notwithstanding Dr. Brunson's impressive resume, he has not done so. Indeed, Dr. Brunson concedes that Mr. Jenkins was qualified for the hire. (Def. SMF ¶ 13; Pl. Resp. ¶ 13). As for Dr. Brunson's alleged conversation with another teacher

regarding possible age discrimination in the past, even if his colleague's statements were admissible, this single vague anecdote does not reasonably suggest that Dr. Brunson was the victim of a discriminatory practice perpetuated by Principal Harrington.[1] *Cf. Monaco v. City of Jacksonville*, 51 F. Supp. 3d 1251, 1272 (M.D. Fla. 2014) ("[V]ague, generalized, hearsay statements . . . do not constitute probative anecdotal evidence of discrimination and are not sufficient to raise an issue of material fact on summary judgment.").

In sum, Dr. Brunson has not presented admissible evidence that a substantially younger person was hired in his place so as to make out a prima facie case, he has not adequately rebutted DCS's legitimate reason for Principal Harrington's hiring decision, and he has not otherwise produced sufficient evidence to support an inference of age discrimination.

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[1] To establish a circumstantial pattern of age discrimination, Dr. Brunson also points, in response to DCS's statement of material facts, to several age-discrimination lawsuits that have apparently been filed against DCS since 2005. (Pl. Resp. ¶ 47). However, he does not detail the substance of the allegations made in most of those lawsuits, aside from indicating that two of the lawsuits were settled he does not detail the resolution of those cases, and, finally, he does not suggest that Principal Harrington—the decisionmaker in this case—was involved in any of them. Moreover, the filing of a lawsuit alone does not necessarily mean that a plaintiff's allegations are true, nor does the settlement of a lawsuit necessarily act as an admission of liability. *See, e.g., Howard v. McLucas*, 871 F.2d 1000, 1003 n.4 (11th Cir. 1989) (consent decree provided that settlement was not admission of liability). For its part, DCS indicates that none of the referenced lawsuits have ended in a judgment against it. (Doc. 112 at 5). The undersigned concludes that, without more information, this evidence is irrelevant to the present claims.

IV. CONCLUSION

For the reasons stated above, the undersigned **RECOMMENDS** that DCS's Motion for Summary Judgment, (Doc. 100), be **GRANTED**. The Clerk is **DIRECTED** to terminate the reference to the undersigned Magistrate Judge.

IT IS SO **RECOMMENDED** on this 22nd day of November 2021.

R. Cannon

REGINA D. CANNON
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DR. ISAAC BRUNSON, Plaintiff, v. DEKALB COUNTY SCHOOLS, Defendant.	CIVIL ACTION NO. 1:19-cv-03819-WMR-RDC

ORDER

Before the Court is the Magistrate Judge's Final Report and Recommendation ("R&R") [Doc. 114], which recommends this Court grant the motion for summary judgment filed by Defendant DeKalb County Schools (the "School District") [Doc. 100] on Plaintiff Dr. Isaac Brunson's age discrimination claim. For the reasons discussed herein, the Court grants summary judgment to the School District.

I. Standard of Review

In reviewing the R&R, this Court "make[s] a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). After review, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the

magistrate judge." *Id.* Here, Dr. Brunson timely filed objections to the R&R [Doc. 118], so the Court reviews the R&R *de novo*.

II. Background

In early January 2019, a music teacher position opened at Pleasantdale Elementary School (the "School"). [Doc. 114 at 4.] Principal Jocelyn Harrington, who was solely responsible for the hiring decision, requested that human resources create a job posting for the open position. [*Id.* at 2, 4.] On January 14, the position was posted on PATS, the School District's electronic application system. [*Id.* at 4.]

John Jenkins applied for the open music teacher position on January 16 and was interviewed by Principal Harrington on January 18. [*Id.*] Principal Harrington was impressed by Mr. Jenkins and contacted human resources on January 22 about hiring him. [*Id.* at 5.] Mr. Jenkins had not yet submitted all of the required paperwork, so human resources advised Principal Harrington to wait a bit longer to see if anyone else applied. [*Id.*] On January 30, Principal Harrington logged into PATS and pulled a list of the applicants as of that date. [*Id.*] She interviewed a few of those applicants on February 6 and 11, but after the interviews she still wanted to hire Mr. Jenkins. [*Id.* at 5–6.] Principal Harrington emailed Mr. Jenkins on February 13 about finalizing the recommendation for hire. [*Id.* at 6.] Principal Harrington confirmed with human resources that she wanted to hire Mr. Jenkins on February 20, and Mr. Jenkins accepted the job offer on February 21. [*Id.*]

Dr. Brunson, 63 years old, has an extensive educational background in music, holds a teaching license, and has prior experience teaching music education. [*Id.* at 2–3.] Dr. Brunson was a substitute teacher at the School between January and May 2019 and learned of the open music teacher position shortly after starting as a substitute. [*Id.* at 2.] He applied electronically for the open position on February 8. [*Id.*] Between February 8 and 14, Dr. Brunson repeatedly told Radika Brown, the School's registrar, that he wanted to interview for the open position. [*Id.* at 3.] On February 19, Dr. Brunson gave Ms. Brown a letter that was addressed to Principal Harrington and that requested an interview, which Ms. Brown placed in Principal Harrington's mailbox. [*Id.*] The letter was the first time Principal Harrington learned of Dr. Brunson's interest in the open position. [*Id.*]

On February 20, while Principal Harrington and Dr. Brunson were discussing a separate issue, Principal Harrington told him to come back the next day to interview for the open position. [*Id.* at 4.] However, Dr. Brunson was unable to locate Principal Harrington on February 21 and was not interviewed. [*Id.*] As noted, Mr. Jenkins accepted the job offer to fill the open position on February 21. [*Id.* at 6.]

On March 8, Dr. Brunson filed a charge of discrimination with the Equal Employment Opportunity Commission (the "EEOC"). [*Id.*] After the EEOC issued a right-to-sue letter, Dr. Brunson, proceeding *pro se*, brought this action against the

School District and several school officials. [*Id.* at 6–7.] The Court dismissed all of Dr. Brunson's claims except one—his claim that the School District refused to hire him for the open position in violation of the Age Discrimination in Employment Act ("ADEA"). [*Id.* at 7; *see* Docs. 11, 39, 43.]

The School District now moves for summary judgment on Dr. Brunson's ADEA claim. [Doc. 100; Doc. 114 at 7.] In the R&R, the Magistrate Judge recommends granting the School District's motion for summary judgment for three reasons. [Doc. 114 at 16–17.] First, the Magistrate Judge found that Dr. Brunson has not established a *prima facie* case of age discrimination because he has provided no competent evidence that Mr. Jenkins was "substantially younger" than himself, which is one of the required elements. [*Id.* at 12–13.] Second, the Magistrate Judge determined that Dr. Brunson has failed to show that the School District's reason for not hiring him is pretextual. [*Id.* at 13–15.] Finally, the Magistrate Judge found that Dr. Brunson has not otherwise presented circumstantial evidence that creates a triable issue concerning the School District's discriminatory intent. [*Id.* at 15–16.] As noted, Dr. Brunson filed objections to the R&R. [Doc. 118.]

III. Discussion

The Court "shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). In evaluating a summary judgment motion,

"[t]he evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in [the non-movant's] favor." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986).

The ADEA makes it unlawful for an employer to "fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age." 29 U.S.C. § 623(a)(1). To assert a claim under the ADEA, a plaintiff "must establish that his age was the 'but-for' cause of the adverse employment action." *Liebman v. Metro. Life Ins. Co.*, 808 F.3d 1294, 1298 (11th Cir. 2015). When an ADEA claim is based on circumstantial evidence, as in this case,[1] courts ordinarily apply the burden-shifting framework from *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). *See Liebman*, 808 F.3d at 1298.

Under this framework, the plaintiff must first establish a *prima facie* case of discrimination. *See id.* To establish a *prima facie* case of failure-to-hire

[1] As the Magistrate Judge found, there is no direct evidence of age discrimination in this case. [Doc. 114 at 9.] Dr. Brunson "objects to [the Magistrate Judge's] assertions that he did not provide evidence of disparate treatment due to the discrimination perpetrated on him" and lists harms he says he suffered as a result of not being hired, including emotional harm. [Doc. 118 at 11 (citing Doc. 114 at 10).] It is not entirely clear to what Dr. Brunson is objecting. The Magistrate Judge did not find that he failed to provide evidence of disparate treatment on page 10 of the R&R; on that page, the Magistrate Judge simply recited the relevant legal rules. [Doc. 114 at 10.] As noted, on the previous page, the Magistrate Judge did find that "Dr. Brunson has pled no facts to suggest direct evidence of age discrimination." [Doc. 114 at 9.] To the extent that is the finding to which Dr. Brunson objects, the Court agrees with the Magistrate Judge and notes that the harms Dr. Brunson lists in his objection are not direct evidence of discrimination. Instead, they are harms he supposedly suffered as a result of alleged discrimination.

discrimination under the ADEA, the plaintiff must show (1) he was a member of the protected group between the ages of 40 and 70; (2) he was not hired; (3) a substantially younger person filled the position; and (4) he was qualified to do the job. *See id.* If the plaintiff establishes the *prima facie* case, "the burden shifts to the employer to rebut the presumption of discrimination with evidence of a legitimate, nondiscriminatory reason for the adverse employment action." *Id.* If the employer produces evidence of a legitimate, nondiscriminatory reason, then the burden shifts back to the plaintiff to show that the proffered reason is a pretext for discrimination. *Id.*

Although this framework is one way for the plaintiff to show discriminatory intent, it is not the only way. *See Sims v. MVM, Inc.*, 704 F.3d 1327, 1333 (11th Cir. 2013). The plaintiff will also survive summary judgment if he "presents circumstantial evidence that creates a triable issue concerning the employer's discriminatory intent." *Id.* "A triable issue of fact exists if the record, viewed in a light most favorable to the plaintiff, presents a convincing mosaic of circumstantial evidence that would allow a jury to infer intentional discrimination by the decisionmaker." *Id.* (quotation marks omitted).

After conducting *de novo* review of the R&R, Dr. Brunson's objections to the R&R, and all other relevant parts of the record, the Court determines that summary judgment in favor of the School District is proper.

Under the *McDonnell Douglas* framework, assuming Dr. Brunson has established a *prima facie* case of age discrimination,[2] the burden shifts to the School District to provide a legitimate, nondiscriminatory reason for not hiring Dr. Brunson. *See Liebman*, 808 F.3d at 1298. The Court agrees with the Magistrate Judge that the School District proffered a legitimate, nondiscriminatory reason for not hiring Dr. Brunson—specifically, that Dr. Brunson was not hired because, by the time Principal Harrington learned of his interest in the open position, she had already selected Mr. Jenkins and was in the process of finalizing that decision. [*See* Doc. 114 at 13–15; *see also* Doc. 100-1 at 14.] Indeed, Principal Harrington testified that she did not learn of Dr. Brunson's interest in the position until she read his February 19 letter requesting an interview. [Doc. 105 at 8, 14–15.] And, by that time, Principal Harrington had already decided to hire Mr. Jenkins. [*See* Doc. 100-3 at 5, 20.]

In his objections, Dr. Brunson argues that two individuals, Ms. Brown, the School's registrar, and Dr. Tracia Cloud, the School District's hiring manager, contradict Principal Harrington's assertion that she was not aware of his application.

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[2] The Magistrate Judge found that Dr. Brunson has not established a *prima facie* case of age discrimination because he provided no competent evidence that Mr. Jenkins was "substantially younger" than himself, which is one of the required elements. [Doc. 114 at 12–13.] The Court need not reach this issue because, even assuming Dr. Brunson has established a *prima facie* case, he has not demonstrated that the School District's legitimate, nondiscriminatory reason for not hiring him is a pretext for discrimination. Dr. Brunson objects on three grounds to the Magistrate Judge's finding that he has not established a *prima facie* case [Doc. 118 at 5–7], but the Court need not resolve the objections because it does not reach this issue.

[Doc. 118 at 11.] Specifically, "[t]hey contradict Harrington's claim of, suddenly and conveniently, not following her daily routine of checking her mailbox as part of her due diligence . . . ; the mailbox in which Mrs. Brown placed [Dr. Brunson's] hand-written request for an interview." [*Id.*] The Court finds that this objection is immaterial and thus does not foreclose summary judgment. Regardless of when Principal Harrington checked her mailbox (whether daily or not), Dr. Brunson testified that he wrote the letter on February 19, so Principal Harrington could not have seen the letter any earlier than February 19. [Doc. 100-2 at 27–28, 30.] By that time, Principal Harrington had already decided to hire Mr. Jenkins. [*See* Doc. 100-3 at 5, 20.]

Because the School District has provided a legitimate, nondiscriminatory reason for not hiring Dr. Brunson, the burden shifts back to Dr. Brunson to show that the proffered reason is a pretext for discrimination. *See Liebman*, 808 F.3d at 1298. As the Magistrate Judge found, Dr. Brunson has failed to provide any evidence that the School District's proffered reason is pretextual. [*See* Doc. 114 at 13–15.] In his objections, Dr. Brunson disagrees with the Magistrate Judge's finding "that he did not introduce sufficient evidence to show that [the School District's] hiring explanation is pretextual" and argues that he "has shown that Principal Harrington's ignorance of [Dr. Brunson] applying for the music position is not true and contradicted by too many accounts." [Doc. 118 at 7–8.] For support, he cites

two depositions and an affidavit. [*Id.* (citing Doc. 103 at 15; Doc. 104 at 16–17; Doc. 118 at 33–35).]

Contrary to his assertions, however, the cited evidence does not contradict the evidence in the record that Principal Harrington was unaware of Dr. Brunson's application when she made the final hiring decision. In the first cited deposition, Ms. Brown, the School's registrar, testified that she placed an envelope from Dr. Brunson in Principal Harrington's box. [Doc. 103 at 15, 19.] In the second deposition, Dr. Cloud, the School District's hiring manager, testified on the process for filling an open position. [Doc. 104 at 6, 16–17.] Finally, the cited affidavit appears to outline a school principal's typical day and responsibilities. [Doc. 118 at 33–35.] None of this evidence refutes Principal Harrington's testimony that she was unaware of Dr. Brunson's application until she received his February 19 letter, at which point she had already decided to hire Mr. Jenkins.

Although Dr. Brunson fails to show age discrimination under *McDonnell Douglas*, the Court recognizes that he can still survive summary judgment if he "presents circumstantial evidence that creates a triable issue concerning the employer's discriminatory intent." *Sims*, 704 F.3d at 1333. That means the record must present a "convincing mosaic of circumstantial evidence that would allow a jury to infer intentional discrimination by the decisionmaker." *Id.*

Here, the Court agrees with the Magistrate Judge that "Dr. Brunson has not pieced together a 'convincing mosaic' of evidence to sustain his claim." [*See* Doc. 114 at 15–16.] As noted by the Magistrate Judge, and contrary to his objection, Dr. Brunson cannot show a triable issue concerning the School District's discriminatory intent simply based on his belief that he was more qualified for the position. [*Id.* at 15; Doc. 118 at 9–10.] But even if he could, his qualifications are ultimately irrelevant to the question of discriminatory intent when Principal Harrington had already decided to hire Mr. Jenkins by the time she became aware of Dr. Brunson's application, including his qualifications.

Dr. Brunson also objects to the Magistrate Judge's determination that he has not shown a "convincing mosaic" of circumstantial evidence of discrimination because he testified that Principal Harrington discriminated similarly against another employee on the basis of age. [Doc. 118 at 4–5.] Specifically, Dr. Brunson testified that Principal Harrington discriminated against Dr. Sherry Lomax by "[n]ot wanting to interview her." [Doc. 100-2 at 32–33.] Notably, however, Dr. Brunson also testified that he did not know whether Principal Harrington ultimately did not interview Dr. Lomax. [*Id.* at 34.] As such, it is not apparent that this is evidence of similar discrimination. In any event, like the Magistrate Judge, the Court finds that "this single vague anecdote does not reasonably suggest that Dr. Brunson was the

victim of a discriminatory practice perpetuated by Principal Harrington." [Doc. 114 at 16.]

Finally, Dr. Brunson argues in his objections that whether he has presented a "convincing mosaic" of evidence should be decided by a jury. [Doc. 118 at 8–9.] Dr. Brunson's objection ignores the relevant test. The test is not whether Dr. Brunson has presented a "convincing mosaic" of evidence to succeed on his claim; the test is whether Dr. Brunson has presented a "convincing mosaic of circumstantial evidence *that would allow a jury to infer* intentional discrimination." *Sims*, 704 F.3d at 1333 (emphasis added). It is not for a jury to decide whether a party has presented sufficient evidence for a case to go to the jury.

IV. Conclusion

Accordingly, Dr. Brunson's objections [Doc. 118] are **OVERRULED**, and the School District's motion for summary judgment [Doc. 100] is **GRANTED**.

IT IS SO ORDERED, this 5th day of January, 2022.

William M. Ray II

WILLIAM M. RAY, II
UNITED STATES DISTRICT JUDGE

Additional material from this filing is available in the Clerk's Office.