

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JAMES I. SCOFIELD

v.

BALTIMORE CITY BOARD OF
SCHOOL COMMISSIONERS

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Civil No. JFM-08-125

MEMORANDUM

Plaintiff has brought this action against his employer, the Baltimore City Board of School Commissioners, alleging that he was discriminated against because of his race when he was not promoted to the position of Area Academic Officer. He asserts two claims, one under Title VII and the other under 42 U.S.C. § 1981. Defendant has moved to dismiss on the ground that plaintiff's claims are time-barred.¹ Defendant's motion will be granted.

The decision to promote Francis DeStefano rather than plaintiff to the position of Area Academic Officer was made in 2004, and plaintiff learned of the decision in a meeting with Bonnie Copeland, then the Chief Executive Officer of the Baltimore City Schools, in late March 2004. Plaintiff filed a formal complaint of discrimination about the promotion decision with the Maryland Commission on Human Relations on or about July 20, 2006. He filed this action on January 15, 2008.

¹Defendant also argues that it is a state agency not subject to suit under Section 1981. Many years ago this court ruled that the Baltimore City Board of School Commissioners is not a state agency and is subject to suit under Section 1981. *Patterson v. Ramsey*, 413 F. Supp. 523 (D. Md. 1976). Although various legislative changes which have been made in recent years arguably bring the holding of *Patterson* into question, Judge Nickerson of this court has recently ruled that *Patterson* remains good law and that the Baltimore City Board of School Commissioners is still subject to suit under Section 1981. *See Thornton v. Baltimore City Bd. of Sch. Comm'rs*, Civil Action WMN-07-1555. In light of the fact that I find plaintiff's claim under Section 1981 to be time barred, I need not reach this question.

According to the allegations in the complaint, the reason that plaintiff did not file a discrimination charge or institute this suit earlier was that it was not until he read a newspaper article critical of DeStefano on May 28, 2006, that he learned of the facts leading him to believe that he had been discriminated against based on his race. According to the allegations of the complaint, the newspaper article reflected that (1) DeStefano was not even minimally qualified for the Area Academic Officer position, (2) DeStefano did not even submit an application for the position, (3) Dr. Copeland pulled the vote on plaintiff's promotion from the agenda during a School Board meeting after plaintiff had been recommended for the position, and (4) Dr. Copeland recommended DeStefano at a later Board meeting.

If DeStefano was improperly promoted to the position of Area Academic Officer, it is extremely unfortunate. However, Title VII requires that an administrative charge for discrimination be filed within 300 days of the alleged discriminatory act, 42 U.S.C. § 2000e-5(e)(1), and plaintiff did not file his EEO charge until more than 600 days after the promotion of DeStefano upon which the charge was based. Moreover, plaintiff was required to file an action under 42 U.S.C. 1981 within three years after his cause of action accrued, *see* Md. Code Ann., Cts. & Jud. Proc. Art., § 5-101; *Burnett v. Grattan*, 468 U.S. 42 (1984), and plaintiff did not institute this lawsuit until almost four years after DeStefano's promotion

Amini v. Oberlin College, 259 F.3d 493 (6th Cir. 2001), is on point. There, the plaintiff was not accepted for a faculty position for which he applied and allegedly did not learn until nine months later that the person who had been hired was younger and far less qualified than he. Within three months thereafter, he filed a charge with the EEOC, alleging, race, national origin, and age discrimination. This filing was more than 300 days after plaintiff's non-selection for the

faculty position but he argued that the period of time between his non-selection and his learning of material information about the person whom was hired in his stead should be equitably tolled. The court rejected this argument.

Plaintiff here contends that he is a team player who graciously acquiesced in DeStefano's promotion and that he should not be penalized for not filing an EEO charge until he had learned that the selection of DeStefano for the Area Academic Officer position was entirely unwarranted on the merits. This contention is not without appeal. However, the time limit imposed by Title VII for the filing of an administrative charge of discrimination and the limitations period established by section 5-101 of the *Courts and Judicial Proceedings Article* serve the purpose of preventing stale claims from being pursued. This purpose is an important one in all contexts, including the work environment where personnel decisions must be made on a prompt and continuing basis. Plaintiff remains as a principal in the Baltimore school system, and Dr. Copeland has been replaced as the system's chief executive officer. If a wrong occurred in 2004, it should be rectified not by attempting to restore the *status quo ante* through litigation of a claim that has stagnated but by entrusting to Dr. Copeland's successor the responsibility to make future promotion and other personnel decisions strictly on the basis of merit.

A separate order granting defendant's motion and dismissing this action is being entered herewith.

May 21, 2008

/s/
J. Frederick Motz
United States District Judge

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ORDER

For the reasons stated in the accompanying memorandum, it is, this 21st day of May
2008

ORDERED

1. Defendant's motion to dismiss is granted; and
2. This action is dismissed.

/s/

J. Frederick Motz
United States District Judge