

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF LANCASTER)	C/A NO.: 2021-CP-29-01045
)	
Peter Beck,)	
)	
Plaintiff,)	
)	
vs.)	<i>Proposed</i>
)	ORDER GRANTING
)	SUMMARY JUDGMENT
Lancaster County Sheriff's Office,)	
)	
Defendant.)	
)	

This matter came before the court on December 2, 2024, upon motion of Defendant for summary judgment on all claims. Present at the hearing were Daniel C. Plyler, Esquire on behalf of the Defendant, and Jacob J. Modla, Esquire on behalf of the Plaintiff. Having carefully considered all filings in the case, all submissions made by the parties, and the arguments of both sides, the Court finds that summary judgment is appropriate on all claims raised by Plaintiff, and hereby GRANTS Defendant's motion for summary judgment.

FINDINGS OF FACT

This case was filed by Peter Beck, a former deputy of the Sheriff of Lancaster County. In his Complaint, Plaintiff raises claims of 1) tortious interference with a contractual relationship, 2) defamation, and 3) wrongful discharge in violation of the public policy of the state of South Carolina. Plaintiff's claims stem from his separation from the Lancaster County Sheriff's Office (LCSO) in March of 2020. The record before the Court shows that Plaintiff began his employment with LCSO in 2015. He briefly left employment with LCSO in 2017 to work with the Dorchester County Sheriff's Office for a period of approximately five (5) weeks. He then returned to employment with LCSO and remained employed until he resigned in lieu of termination in March of 2020.

The record presented to the court reflects that prior to Plaintiff's departure from the LCSO in March of 2020, Sheriff Faile received numerous citizen complaints regarding Plaintiff's conduct. Additionally, Sheriff Faile cited Plaintiff's aggression, foul language, treatment of the public, and documentation issues as reasons why Plaintiff was no longer a fit for the LCSO. Specifically, Defendant provided documentation and testimony regarding two, concerning incidents that happened in rapid succession in March of 2020 involving Plaintiff. Sheriff Faile had Major Shaw investigate those issues, and based on the findings from that investigation, the Sheriff made the decision to terminate Plaintiff. However, Defendant provided testimony from Sheriff Faile that, in an effort to allow Plaintiff to save face, the Sheriff allowed Plaintiff to resign instead of terminating him from employment.

Following his separation from LCSO in March of 2020, the Plaintiff was hired by the City of Lancaster Police Department (LPD) in April of 2020. Plaintiff claimed that the LCSO defamed him to LPD, as well as to Chester County Sheriff's Office (CCSO), during this one-month period when those potential employers contacted LCSO for job references. However, the only evidence presented by Plaintiff relating to his efforts to secure a position with CCSO was limited to Plaintiff's testimony about hearsay statements he received from CCSO employees. It is clear to the Court that those hearsay statements were not made by CCSO employees with any personal knowledge of any communications between LCSO and CCSO. As for LPD, the Court notes that Plaintiff secured the position he sought with LPD after LPD discussed his job references with LCSO. Furthermore, the Court has reviewed the purported statements made by LCSO to LPD, which Plaintiff presented via a memo placed into Plaintiff's LPD personnel file by Lt. Smalls of LPD, as well as the deposition testimony of Major Shaw regarding what statements he recalls making, and the Court finds that the statements in question are subject to a qualified privilege that

was not exceeded by LCSO, and furthermore said statements represent true, opinion statements by Major Shaw on matters of public importance and/or regarding a public official.

The record further reflects that approximately one year after he began his employment with LPD Plaintiff's employment ended. Plaintiff's employment with LPD was marred by a myriad of citizen complaints relating to the way he interacted with and treated the public. It is clear from the record presented that those citizens took to the media and even appeared before City Council to express their concerns.

Approximately four months after his employment with LPD terminated, Plaintiff filed his Complaint in the above-captioned matter.

LAW AND STANDARD OF REVIEW

Rule 56(c), SCRCP, regarding summary judgement states that, "[t]he judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." The South Carolina Supreme Court confirmed that the genuine issue of material fact standard is the controlling standard for summary judgment. *Kitchen Planners, LLC v. Friedman et. al.*, 440 S.C. 456, 463-4 (2023). Furthermore, pursuant to Rule 56(e) a party opposing summary judgment "may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided by this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him." Rule 56(e), SCRCP.

To establish a claim for tortious interference with contractual relations, Plaintiff must prove: "(1) 'the existence of a contract;' (2) 'knowledge of the contract;' (3) 'intentional

procurement of its breach;’ (4) ‘the absence of justification;’ and (5) ‘resulting damages.’” *Hall v. UBS Financial Services, Inc.*, 435 S.C. 75, 89, 866 S.E.2d 337, 344 (2021) (quoting *Eldeco, Inc. v. Charleston Cty. Sch. Dist.*, 372 S.C. 470, 480, 642 S.E. 2d 726, 731 (2007)). ““An essential element of the cause of action for tortious interference with contractual relations requires the intentional procurement of the contract’s breach...Where there is no breach of the contract, there can be no recovery.” *Id.*

For Plaintiff to succeed on a defamation claim, he must prove “ ‘(1) ‘a false and defamatory statement concerning another;’ ‘(2) an unprivileged publication to a third party;’ ‘(3) fault on the part of the publisher;’ and ‘(4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.’” *McNeil v. S.C. Dep’t of Corr.*, 404 S.C. 186, 743 S.E.2d 843 (Ct. App.2013) (quoting *Murray v. Holnam, Inc.*, 344 S.C. 129, 139, 542 S.E.2d 743, 748 (Ct.App.2001)). Additionally, as a public figure, Plaintiff must prove actual malice when the matters at issue constitute matters of public importance, concern, and/or controversy. *See, New York Times, Co. v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710 (1964); *see also, Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 94 S.Ct. 2997 (1974); *see also, Sanders v. Prince*, 304 S.C. 236, 403 S.E.2d 640 (1991); *Fleming v. Rose*, 350 S.C. 488, 567 S.E.2d 857 (2002); and *Botchie v. O’Dowd*, 315 S.C. 126, 432 S.E.2d 458.

Finally, as an at-will employee, in order to proceed upon a claim of wrongful discharge, Plaintiff must prove that the termination of his employment violated a public policy of South Carolina. *See, Baron v. Labor Finders of South Carolina*, 393 S.C. 609, 713 S.E.2d 634 (2011); *Lawson v. S.C. Dep’t of Corrections.*, 340 S.C. 346, 350, 532 S.E.2d 259, 260 (2000); *Culler v. Blue Ridge Elec. Coop., Inc.*, 309 S.C. 243, 422 S.E.2d 91 (1992); and *Ludwick v. This Minute of Carolina Inc.*, 287 S.C. 219, 337 S.E.2d 213 (1985). *See also, S.C. Code Ann. § 15-78-60(17).*

DISCUSSION AND CONCLUSIONS OF LAW

After careful review of all the submissions and arguments made by the parties, the Court finds that Plaintiff has failed to come forward with appropriate evidence that would create a genuine issue of material fact relating to his claims, and therefore summary judgment is appropriate.

As to Plaintiff's claim for tortious interference with contractual relationships, the Court finds that Plaintiff's claim was limited to his efforts to secure employment with CCSO and LPD. As a primary issue, the Court notes that South Carolina is an at-will employment state, and Plaintiff has not presented any evidence that either position he applied for involved a contractual offer of employment. Without a contract, Plaintiff cannot establish the first element of a tortious interference with contractual relationships claim. *Hall v. UBS Financial Services, Inc.*, 435 S.C. 75, 89, 866 S.E.2d 337, 344 (2021). Furthermore, the court finds that Plaintiff has failed to provide any admissible evidence that would create a genuine issue of material fact relating to any purported interference on the part of LCSO with regards to Plaintiff's efforts to secure employment with CCSO. The Defendant presented testimony from Sheriff Faile and Major Shaw that neither of them had any conversations with anyone at CCSO regarding Plaintiff and/or Plaintiff's efforts to secure employment with CCSO. Plaintiff has not presented any admissible evidence to contradict that testimony, and at the summary judgment phase Plaintiff cannot simply rely on his allegations. *See* Rule 56(e), SCRCF. Lastly, Plaintiff secured employment with LPD, notably without a contract, and therefore he cannot maintain his claim based on the LPD employment. As such, the Court finds summary judgment is appropriate, and hereby GRANTS summary judgment to the Defendant on Plaintiff's tortious interference with contractual relationships claim.

As to Plaintiff's claim for wrongful discharge in violation of South Carolina public

policy, the Court finds Plaintiff has failed to produce admissible evidence that his separation from LCSO violated any public policy of the state of South Carolina. First, as with all deputies in South Carolina, the public policy of the state of South Carolina is that they serve at the pleasure of the Sheriff. *See* S.C. Code Ann. § 23-13-10. This is not to say that there are no circumstances under which the discharge of a deputy could be found to violate the public policy of the state of South Carolina, but the Court highlights this issue to show the balancing of public policies that are inherent in a claim like the one raised by Plaintiff in this case. The case law is clear that Plaintiff would have to establish that the discharge was retaliatory in nature and that it constitutes a “violation of [a] clear mandate of public policy.” *See Mason v. Mason*, 412 S.C. 28, 63, 770 S.E.2d 405, 423. There is simply no evidence in this case that Plaintiff’s separation from LCSO would constitute a violation of a clear mandate of public policy in South Carolina.

Plaintiff’s theory is that in February of 2020 he was involved in a narcotics action that resulted in several individuals being arrested. One of those individuals was a man named Si Faile. The record reflects that Si Faile is a distant cousin of Sheriff Faile. Plaintiff postulated that it was his involvement in the action that resulted in Si Faile being arrested that motivated Sheriff Faile to force Plaintiff to resign. However, Plaintiff’s claim finds no evidentiary support in this case. Both Sheriff Faile and Major Shaw testified that Si Faile had been arrested on multiple occasions by various deputies at LCSO, and none of those deputies had faced any retaliation as a result of those arrests. Plaintiff testified that he was aware Si Faile had been arrested on multiple occasions by deputies at LCSO, and that none of those deputies had been subject to disciplinary actions or retaliation as a result of arresting Si Faile. Further, Sheriff Faile and Major Shaw both testified that the February 2020 arrest of Si Faile had absolutely nothing to do with Plaintiff’s separation from LCSO, and instead it was the two, serious incidents in March of 2020 that led the Sheriff to

decide that Plaintiff was no longer a fit with the LCSO.

The Court finds that Plaintiff has failed to provide evidence that would create a genuine issue of material fact relating to his claim of wrongful discharge, and therefore summary judgment is appropriate and Defendant's motion for summary judgment is hereby GRANTED.

Finally, as to Plaintiff's claim for defamation, the Court finds that Defendant is immune in this case, and the Court further finds that Plaintiff has failed to establish evidence that would create a genuine issue of material fact that the purported statements made by Major Shaw to LPD's Lt. Small rise to the level of defamatory statements. As an initial matter, the Court finds that the Plaintiff, as a certified law enforcement officer and deputy Sheriff, is a public official for purposes of defamation law. *See Fleming v. Rose*, 350 S.C. 488, 567 S.E.2d 857 (2002); *see also Botchie v. O'Dowd*, 315 S.C. 126, 432 S.E.2d 458 (1993). Additionally, the matters that are the subject of the statements in question are matters of public importance relating to a person's qualifications and temperament to serve as a law enforcement officer the state of South Carolina. *Id.* As such, the *New York Times v. Sullivan* analysis applies to his claim of defamation in this matter. As announced in *Fleming*, "[w]hen a public figure seeks to recover damages for a defamatory falsehood relating to his official conduct, the 'fault' he must prove is that the statement was made with 'actual malice.'" *Fleming*, 350 S.C. at 494, 567 S.E.2d at 860.

Defendant argues, and the Court agrees, that since Plaintiff must establish "actual malice" in order to prevail on his defamation claim, Defendant is immune pursuant to S.C. Code Ann. § 15078-60(17) ("A governmental entity is not liable for a loss resulting from: ... employee conduct...which constitutes...actual malice..."). On this basis alone, the Court finds that summary judgment is appropriate with regards to Plaintiff's defamation claim. However, the Court finds that Defendant would also be entitled to a qualified privilege with regards to the

statements made by Major Shaw to Lt. Small, and that Major Shaw did not exceed the qualified privilege that applies. *See generally* S.C. Code Ann. § 41-1-65. Furthermore, Plaintiff still received the job with LPD he was seeking, and therefore Plaintiff has failed to establish that any statement made by Major Shaw and attributable to LCSO would meet the element of proving the communication was defamatory. Under the established case law, “[a] communication is defamatory if it tends to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him.” *Murray v. Holnam, Inc.*, 344 S.C. 129, 139, 542 S.E.2d 743, 748 (Ct. App. 2001), *citing*, *Fleming v. Rose*, 338 S.C. at 532.

For all these reasons, the Court finds that summary judgment is appropriate with regards to Plaintiff’s defamation claim, and the Court hereby GRANTS Defendant’s motion.

CONCLUSION

Wherefore, based on the foregoing, the Court finds that Defendant’s motion for summary judgment must be, and hereby is, GRANTED, and Plaintiff’s claims are dismissed with prejudice.

IT IS SO ORDERED.

The Honorable G. D. Morgan, Jr.
Presiding Judge for the Sixth Judicial Circuit

_____, South Carolina



Lancaster Common Pleas

Case Caption: Peter Beck VS Lancaster County Sheriff'S Office

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Type: Order/Summary Judgment

So Ordered

G.D. Morgan Jr.