

Commonwealth of Kentucky

Court of Appeals

NO. 2010-CA-000556-MR

JEFF OAKLEY

APPELLANT

v.

APPEAL FROM HOPKINS CIRCUIT COURT
HONORABLE JAMES C. BRANTLEY, JUDGE
ACTION NO. 04-CI-00887

HOPKINS COUNTY, KENTUCKY;
JIM LANTRIP, individually and as jailer;
PATRICIA HAWKINS, individually and as
County Judge Executive

APPELLEES

OPINION
AFFIRMING

** ** * ** * **

BEFORE: KELLER, THOMPSON, AND WINE; JUDGES.

WINE, JUDGE: Jeff Oakley appeals from a summary judgment of the Hopkins Circuit Court which dismissed his claims against Hopkins County, Kentucky, by and through the Hopkins County Fiscal Court, County Judge-Executive Patricia Hawkins, and County Jailer Jim Lantrip. Oakley argues that there were genuine issues of material fact supporting his allegations that Judge-Executive Hawkins

and Jailer Lantrip induced him to purchase marijuana from a jail inmate and then coerced his resignation and had him prosecuted when his actions came to light.

We agree with the trial court that Oakley failed to present affirmative evidence that he reasonably relied on any representations by the county officials. Therefore, the trial court properly dismissed all his claims.

For purposes of the motion for summary judgment, the facts of this action are as follows: In 2003, Oakley was employed as the Road Supervisor for Hopkins County, Kentucky. Oakley's department used jail inmates on work details, and various road department employees were authorized to pick up inmates from the county jail and transport them to work locations. One such employee was David Woodall, a mechanic. Oakley states that he complained to county officials that inmates were not being picked up and delivered from the jail in a timely manner, and that the inmates had money and cell-phones on them while on work detail. Oakley states that he repeatedly voiced suspicions that the inmates were involved in drug trafficking.¹

Oakley further alleges that he had a discussion with Jailer Jim Lantrip about the situation with the inmates on October 30, 2003. According to Oakley, Jailer Lantrip told him that they needed "to get drugs involved" in order to facilitate the investigation. He also alleges that County Judge-Executive Patricia

¹ Subsequent investigation revealed that inmates had routinely given Woodall drugs. In exchange, Woodall would check the inmates out early and take them to his home, where the inmates would use drugs and meet with girlfriends for sex. There is no evidence that Oakley was involved in any of these activities.

Hawkins asked him “to help with the jail investigation.” Based on these comments, Oakley contacted Woodall to arrange to buy an ounce of marijuana from an inmate, Jermaine White.

Woodall forwarded the request to White, who offered to sell Oakley one ounce of marijuana for \$100. Oakley agreed to the purchase, but told White he did not have the money. White agreed to provide the marijuana at the time and Oakley could pay him later. After Oakley purchased the marijuana, he put it in a mayonnaise jar and hid it behind a bush in his backyard. Although he met with Jailer Lantrip and other officials several times during the following week, he did not advise anyone about the transaction. He explained that he did not know who he could trust, and he wanted to protect Woodall from retribution. He also allowed White to remain working on the road detail.

During the course of the jail investigation, suspicion focused on Woodall and White. White was interviewed and told officials about selling marijuana to Oakley. Jailer Lantrip recorded a conversation between White and Oakley in which Oakley referred to purchasing the marijuana and admitted owing \$100 to White for the marijuana. On November 7, Oakley was confronted with the evidence. Oakley initially denied purchasing marijuana from White, but later admitted to doing so after hearing the tape. He then retrieved the marijuana from the bush behind his house. In light of this evidence, Judge-Executive Hawkins offered Oakley the opportunity to resign. Oakley then signed the letter of

resignation. Thereafter, Oakley was criminally charged with possession of marijuana, but the charges were later dismissed.

On November 8, 2004, Oakley filed a complaint against Hopkins County, by and through the Hopkins County Fiscal Court. He named each of the Fiscal Court Magistrates in their official capacities, as well as County Judge-Executive Hawkins and Jailer Lantrip in their official and individual capacities. He alleged that the county officials induced him to purchase the marijuana from White and then forced him to resign after his actions became known. He asserted claims for wrongful discharge, abuse of process, malicious prosecution, defamation, fraud, intentional infliction of emotional distress, interference with a contractual relationship, deprivation of civil rights, and violation of the Whistle-Blower Act.

The trial court granted summary judgment on Oakley's claims against two of the magistrates, and those dismissals have not been appealed. Thereafter, the remaining defendants moved for summary judgment. On August 24, 2009, the trial court granted the motion, finding no evidence that Oakley reasonably relied upon any representations by county officials when he purchased the marijuana. Oakley subsequently filed a motion to alter, amend or vacate the summary judgment, Kentucky Rules of Civil Procedure (CR) 59.05, which the trial court denied. This appeal followed.²

² The claims against the remaining Fiscal Court Magistrates were also dismissed by the summary judgment order, but Oakley has not named them as parties to this appeal.

The standard of review governing an appeal of a summary judgment is well settled. We must determine whether the trial court erred in concluding that there was “no genuine issues as to any material fact and that the moving party was entitled to a judgment as a matter of law.” *Scifres v. Kraft*, 916 S.W.2d 779, 781 (Ky. App. 1996). Summary judgment is appropriate “if the pleadings, depositions, answers to interrogatories, stipulations, 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.” CR 56.03. In *Paintsville Hosp. Co. v. Rose*, 683 S.W.2d 255, 256 (Ky. 1985), the Supreme Court of Kentucky held that for summary judgment to be proper, “the movant shows that the adverse party could not prevail under any circumstances.”

The Kentucky Supreme Court also stated that “the proper function of summary judgment is to terminate litigation when, as a matter of law, it appears that it would be impossible for the respondent to produce evidence at the trial warranting a judgment in his favor.” *Steelvest, Inc. v. Scansteel Service Center, Inc.*, 807 S.W.2d 476, 480 (Ky. 1991). However, the word “‘impossible’ is used in a practical sense, not an absolute sense.” *Perkins v. Hausladen*, 828 S.W.2d 652, 654 (Ky. 1992). Furthermore, the party opposing summary judgment “cannot rely on the hope that the trier of fact will disbelieve the movant’s denial of a disputed fact, but ‘must present affirmative evidence in order to defeat a properly supported motion for summary judgment.’” *Steelvest*, 807 S.W.2d at 481 (Internal quotations and citations omitted). “Because summary judgments involve no fact finding, this

Court reviews them *de novo*, in the sense that we owe no deference to the conclusions of the trial court.” *Blevins v. Moran*, 12 S.W.3d 698, 700 (Ky. App. 2000).

As the trial court noted, Oakley’s claims are based primarily on Jailer Lantrip’s request that he assist with the investigation, and particularly, his statement that “we need to get drugs involved.” He states that Judge-Executive Hawkins was present at this meeting and agreed with Jailer Lantrip’s statements. Oakley maintains that a jury could reasonably infer wrongdoing by the fact that he had repeatedly raised his concerns about the jail inmates prior to making the purchase. He argues that the jury could reasonably conclude that Jailer Lantrip and Judge-Executive Hawkins led him to believe he should purchase drugs from an inmate and then retaliated against him when he followed through on the suggestion.

However, Oakley concedes that no official explicitly told him to set up the purchase of the marijuana. He only alleges that he interpreted their statements as a directive to do so, and he admits that he may have misinterpreted their statements. In order to move forward on any of his claims, Oakley must show that Jailer Lantrip and Judge-Executive Hawkins intended him to believe that he had been asked to purchase marijuana from an inmate as part of the jail investigation. Although Oakley may have actually believed that he was being asked to purchase drugs from an inmate in order to facilitate the jail investigation,

there is nothing in the record which would support his allegation that Jailer Lantrip and Judge-Executive Hawkins anticipated that he would take such action.

Since Oakley cannot make that showing, then Jailer Lantrip and Judge-Executive Hawkins properly took action against him when they discovered that he made the purchase on his own accord. Although Oakley had previously reported problems with the inmates on work detail, those prior actions do not implicate the Whistleblower Act. Kentucky Revised Statutes (KRS) 61.103(3). Based on his admitted purchase of marijuana from an inmate, Judge-Executive Hawkins had a reasonable basis to terminate his employment or ask for his resignation. Jailer Lantrip and Judge-Executive Hawkins also had probable cause to report his actions to law enforcement for possible criminal prosecution and to report the incident and his resignation to the Fiscal Court. As a result, Oakley cannot maintain actions for wrongful discharge, interference with a contractual relationship, breach of an implied contract, common-law fraud, malicious prosecution, abuse of process, interference with a contractual relationship, defamation, or violation of his civil rights.

Finally, Oakley contends that Jailer Lantrip's and Judge-Executive Hawkins actions amount to intentional infliction of emotional distress. But this claim, like the others, is premised on his allegation that they induced him to purchase the marijuana and then retaliated against him when his actions were discovered. There is no evidence supporting such an inference, or that they acted out of malice or to specifically cause him emotional distress. *See Kroger Co. v.*

Willgruber, 920 S.W.2d 61 (Ky. 1996). Therefore, the trial court properly dismissed this claim as well.

Accordingly, the judgment of the Hopkins Circuit Court is affirmed.

ALL CONCUR.

BRIEFS FOR APPELLANT:

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BRIEF FOR APPELLEES:

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