STATE OF MICHIGAN

COURT OF APPEALS

PHILLIP ALTON BIGGS,

Plaintiff-Appellant,

v

CITY OF TAYLOR, THOMAS BONNER, GLENN BONDY and GEOFFREY BONDY,

Defendants-Appellees.

UNPUBLISHED
April 15, 2004

No. 245280
Wayne Circuit Court
LC No. 01-141409-CZ

Before: Talbot, P.J., and Neff and Donofrio, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting summary disposition in favor of defendants pursuant to MCR 2.116(C)(10) in this case brought under the Whistleblowers' Protection Act (WPA), MCL 15.361 *et seq*. Because we find that plaintiff's claim does not fall under the purview of the WPA, we affirm.

Plaintiff, a police officer, wrote a traffic citation upon observing a woman running a stop sign. He then voided the citation when he discovered that the woman was the mother of two fellow police officers (defendant's Glenn Bondy and Geoffrey Bondy), both of them his superiors. On appeal, plaintiff contends his act of logging the warning violation/citation/ticket as required by State law and his law enforcement employer's policies, was sufficient to constitute a report of a violation or suspected violation of law leading to an actionable claim under the WPA. We disagree.

"The determination whether evidence establishes a prima facie case under the WPA is a question of law that this Court reviews de novo." *Roulston v Tendercare (Michigan), Inc*, 239 Mich App 270, 278; 608 NW2d 525 (2000). "Issues of statutory interpretation are questions of law and are therefore reviewed de novo." *Oakland County Bd of County Road Com'rs v Michigan Property & Cas Guar Ass'n*, 456 Mich 590, 610; 575 NW2d 751 (1998); *Grzesick v Cepela*, 237 Mich App 554, 559; 603 NW2d 809 (1999).

Plaintiff argues that he has a viable claim under the WPA, MCL 15.361 *et seq*. MCL 15.362 provides:

> An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or

> privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action.

Our Supreme Court has stated that in order to establish a prima facie case under the WPA:

> The plaintiff must show that (1) he was engaged in protected activity as defined by the act, (2) the defendant discharged him, and (3) a causal connection exists between the protected activity and the discharge. 'Protected activity' under the WPA consists of (1) reporting to a public body a violation of a law, regulation, or rule; (2) being about to report such a violation to a public body; or (3) being asked by a public body to participate in an investigation. [*Chandler v Dowell Schlumberger, Inc,* 456 Mich 395, 399; 572 NW2d 210 (1998) (internal citations omitted).]

Despite the fact that plaintiff maintains his action of writing a traffic ticket falls within the meaning of the phrase "reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation" and thus supports a prima facie WPA violation, plaintiff's actions are not the type of conduct that the WPA was meant to encourage and protect. "The Whistleblowers' Protection Act's main purpose is to alleviate the inability to combat corruption or criminally irresponsible behavior in the conduct of government or large businesses." *Shallal v Catholic Social Services,* 455 Mich 604, 612; 566 NW2d 571 (1997). Moreover, "[t]he primary motivation of an employee pursuing a whistleblower claim must be a desire to inform the public on matters of public concern . . . ." *Id.* at 621. Additionally, this Court has also explained that:

> The underlying purpose of the act was to protect the public and to promote public health and safety by removing barriers that may interfere with employee efforts to report violations or suspected violations of the law. [*Trepanier v National Amusements, Inc,* 250 Mich App 578, 584; 649 NW2d 754 (2002).]

Plaintiff's activity of issuing and then voiding a traffic ticket as part of the normal course of his employment as a police officer is not protected activity under the WPA. Plaintiff was simply performing his ordinary duties as a police officer assigned to a traffic enforcement detail. Plaintiff's action of logging the citation at the police department was not an attempt to inform the public of, or bring about remediation for a matter of public concern. *Shallal, supra,* 455 Mich 621. And, plainly, plaintiff's writing a traffic violation to a single individual was in no way an attempt to combat corruption or criminally irresponsible behavior of a government or business entity. *Id.* at 612. For these reasons, the trial court did not err in granting defendants' motions for summary disposition. Given our resolution of this issue we need not address the alternative

grounds for affirmance advanced by defendants.

Affirmed.

/s/ Michael J. Talbot
/s/ Janet T. Neff
/s/ Pat M. Donofrio