STATE OF MICHIGAN

COURT OF APPEALS

LISA WAITE-TRAGO,

Plaintiff-Appellant,

v

HOWELL PUBLIC SCHOOLS,

Defendant-Appellee.

UNPUBLISHED
December 6, 2005

No. 263340
Livingston Circuit Court
LC No. 04-020815-NO

Before: Smolenski, P.J., and Schuette and Borrello, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting summary disposition to defendant pursuant to MCR 2.116(C)(10) in this action alleging a violation of the Whistleblowers' Protection Act (WPA), MCL 15.361 *et seq*. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was employed as a teacher by defendant pursuant to a probationary teacher contract that was renewed annually. She alleged that defendant violated the WPA by not renewing her contract because she reported two students who "illegally accessed the email account of another student and programmed sexually explicit and derogatory reminders to frequently appear in said person['s] email account." Relying on *Dickson v Oakland Univ*, 171 Mich App 68; 429 NW2d 640 (1988), the trial court granted defendant's motion for summary disposition under MCR 2.116(C)(10) on the basis that plaintiff's report to her employer was part of her job function, and did not involve a report to a public body, as required by the WPA. On appeal, plaintiff argues that the trial court erroneously relied on *Dickson*, because that decision has "clearly deteriorated into dead law in Michigan." While we recognize that the continued validity of *Dickson* has been questioned, see *Dudewicz v Norris-Schmid, Inc*, 443 Mich 68, 76-77; 503 NW2d 645 (1993) and *Heckmann v Detroit Chief of Police*, 267 Mich App 480, 494-497; ___ NW2d ___ (2005), we need not reach the merits of this argument because we conclude that, notwithstanding its reliance on *Dickson*, the trial court properly granted defendant's motion for summary disposition.

This Court reviews de novo the grant or denial of a motion for summary disposition. *Dressel v Ameribank*, 468 Mich 557, 561; 664 NW2d 151 (2003). A motion for summary disposition under MCR 2.116(C)(10) tests the factual sufficiency of a claim. *Id.* Summary disposition is appropriate under MCR 2.116(C)(10) if "there is no genuine issue as to any

material fact, and the moving party is entitled to judgment or partial judgment as a matter of law."

In order to establish a prima facie case under the WPA, the plaintiff must show that (1) he or she was engaged in a protected activity as defined by the act, (2) the defendant discharged the plaintiff, and (3) a causal connection existed between the protected activity and the discharge. *Roulston v Tendercare, Inc*, 239 Mich App 270, 279; 608 NW2d 525 (2000). In the present case, there is evidence that establishes that defendant decided not to renew plaintiff's contract because of her inappropriate conduct during a fire drill in January of 2004. In her deposition, plaintiff admitted that she acted improperly and that she did not accurately report what happened to defendant. However, plaintiff maintains that the fire drill incident was not the real reason for defendant's action. According to plaintiff, the fact that defendant initially gave her a minor reprimand for the incident and then, after her report of the offensive email, used the fire drill incident as the basis for the decision not to renew her contract creates an inference that defendant's action was actually attributable to her report. We disagree.

The WPA's prohibition on adverse employment action based on the employee's engagement in protected activity requires more than establishing a sequential link in the chain of events between the protected activity and the employment action. A plaintiff must "demonstrate that the adverse employment action was in some manner *influenced* by the protected activity . . . ." *West v Gen Motors Corp*, 469 Mich 177, 185; 665 NW2d 468 (2003) (emphasis added). In *West* our Supreme Court explained:

> Although the employment actions about which plaintiff complains occurred after his report to the police, such a temporal relationship, standing alone, does not demonstrate a causal connection between the protected activity and any adverse employment action. Something more than a temporal connection between protected conduct and an adverse employment action is required to show causation where discrimination-based retaliation is claimed. [*Id*. at 186 (citations omitted).]

In this case, there is no evidence, other than the sequence of events, that the employment decision on the part of defendant was influenced by plaintiff's engagement in protected activity.

At best, the evidence in this case indicates that plaintiff's report led to accusations by the students she reported and their parents concerning wrongdoing by plaintiff. Indeed, according to plaintiff's own testimony, defendant's actions were directly attributable to these accusations rather than her engagement in protected activity.

> *Q.* Now, you filed a complaint in this matter and what do you believe the complaint says? What are you saying the school system did wrong?
>
> *A.* I'm answering the question what do I believe the school system did wrong?
>
> *Q.* Yes.
>
> *A.* I believe that after serving with a spotless record for four years, I was blind-sided with the recommendation not to renewal [sic]; and it happened as a

> direct, direct response to what the administrators were told by two of the students that were involved in the hacking and threatening of another student.

The fact that plaintiff's engagement in protected activity led to accusations and defendant acted on those accusations is inadequate to establish the requisite causal connection. "The fact that a plaintiff engages in a 'protected activity' under the Whistleblowers' Protection Act does not immunize [her] from an otherwise legitimate, or unrelated adverse job action." *West*, *supra* at 187. Thus, plaintiff has presented "nothing more than pure conjecture and speculation" to link her report and the adverse action taken by defendant. *Id.* at 188.

Because plaintiff failed to establish the causal connection between her engagement in protected activity and defendant's adverse employment action, defendant was entitled to summary disposition. Where the trial court reaches the correct result, even if for the wrong reason, this Court will not reverse. *Hess v Cannon Twp*, 265 Mich App 582, 596; 696 NW2d 742 (2005).

Affirmed.

/s/ Michael R. Smolenski
/s/ Bill Schuette
/s/ Stephen L. Borrello