

IN THE UTAH COURT OF APPEALS

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Gregory K. Chase,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellant,)		
)	Case No. 20041127-CA	
v.)		
)		
Midvale City, Tim Start, and)	F I L E D	
Tony Mason,)	(October 20, 2005)	
)		
Defendants and Appellees.)	<table border="1"><tr><td>2005 UT App 449</td></tr></table>	2005 UT App 449
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Third District, Salt Lake Department, 030905866
The Honorable Timothy R. Hanson

Attorneys: D. Bruce Oliver, Salt Lake City, for Appellant
 David L. Church, Salt Lake City, for Appellees

Before Judges Billings, McHugh, and Orme.

PER CURIAM:

Gregory K. Chase appeals the trial court's orders granting summary judgment against him and denying his motion for a new trial. We affirm.

This court reviews a grant of summary judgment for correctness, with no deference to the trial court's conclusions of law. See Rinderknecht v. Luck, 965 P.2d 564, 565 (Utah Ct. App. 1998). Summary judgment is appropriate only when there are no disputed issues of material fact and the moving party is entitled to judgment as a matter of law. See Utah R. Civ. P. 56(c). Where a summary judgment motion is supported by facts in the record or by affidavit, an opposing party must provide in its response specific facts showing that there is a genuine issue for trial. See Utah R. Civ. P. 56(e). If a moving party properly supports a motion for summary judgment with evidence and the opposing party fails to submit contrary evidence, "a trial court is justified in concluding that no genuine issue of fact is present." Amica Mut. Ins. Co. v. Schettler, 768 P.2d 950, 957 (Utah Ct. App. 1989). Even if the facts are undisputed, summary judgment is appropriate only if the moving party is entitled to judgment as a matter of law. See Lockhart Co. v. Anderson, 646 P.2d 678, 680 (Utah 1982).

Here, Chase did not timely respond to defendants' motion, so the facts are uncontroverted. Based on those undisputed facts, the trial court held that Chase's section 1983 claims failed as a matter of law because he did not identify a constitutionally protected interest. Section 1983 provides that "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and law, shall be liable to the party injured." 42 U.S.C. § 1983 (2000). "Section 1983 is not itself a source of substantive rights, but merely provides a method for vindicating federal rights elsewhere conferred." Albright v. Oliver, 510 U.S. 266, 271 (1994). "The first step in any such claim is to identify the specific constitutional right allegedly infringed." Id.

Chase must identify a federal constitutionally protected interest of which he was deprived. He has not done so. It is well established that defamation is not a constitutional wrong. "Defamation, by itself, is a tort actionable under the laws of most States, but not a constitutional deprivation." Siegert v. Gilley, 500 U.S. 226, 233 (1991).

Chase resigned his position with Jordan School District voluntarily, and then asserted that certain allegedly defamatory statements made afterward and unrelated to his quitting precluded him from obtaining other employment in his field. In Siegert, the Supreme Court, applying Paul v. Davis, noted that Siegert resigned from his position; there was no defamation connected with terminating his employment. See id. at 234 (distinguishing Paul v. Davis, 424 U.S. 693 (1976)). The Supreme Court acknowledged that the alleged statements would no doubt hinder future employment opportunities. See id. The Court also noted that "[m]ost defamation plaintiffs attempt to show some sort of special damage and out-of-pocket loss which flows from the injury to their reputation." Id. The Court held, however, that "so long as such damage flows from injury caused by the defendant to a plaintiff's reputation, it may be recoverable under state tort law but it is not recoverable in a [federal] action." Id.

Although Chase attempts to distinguish both Siegert and Stidham v. Peace Officer Standards & Training, 265 F.3d 1144 (10th Cir. 2001), the facts of his case fall squarely within these cases, precluding a federal action for damage to his reputation. Chase has failed to assert a federal constitutionally protected interest within the meaning of section 1983. Thus, the trial court properly determined that Chase's section 1983 claims failed as a matter of law.

Chase also requests that this court review his claim of an equal protection violation under the state constitution, which, he asserts, may provide greater protection. However, this claim is not properly before the court. Chase did not raise any state constitutional claim in his complaint, but asserted this claim for the first time in his motion for new trial. Raising a claim initially in a post-judgment motion does not preserve the issue for appeal. See Estate of Covington v. Josephson, 888 P.2d 675, 678 (Utah Ct. App. 1988).

Accordingly, the trial court's orders are affirmed.

Judith M. Billings,
Presiding Judge

Carolyn B. McHugh, Judge

Gregory K. Orme, Judge