NOT DESIGNATED FOR PUBLICATION

VERNON J. TATUM, JR.	*	**NO. 2011-CA-1051**
VERSUS	*	
		COURT OF APPEAL
ORLEANS PARISH SCHOOL BOARD	*	**FOURTH CIRCUIT**
	*	
		STATE OF LOUISIANA

*** * * * * * ***

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 96-2775, DIVISION "K-5"
Honorable Herbert A. Cade, Judge
* * * * * *

Judge Roland L. Belsome
* * * * * *

(Court composed of Judge Roland L. Belsome, Judge Paul A. Bonin, Judge Daniel L. Dysart)

Vernon J. Tatum, Jr.
2457 North Galvez Street
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IN PROPER PERSON/APPELLANT

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AFFIRMED

FEBRUARY 22, 2012

In this appeal, the plaintiff contends that the trial court erred in granting the defendant's motion for summary judgment. For the reasons set forth below, we affirm.

FACTS AND PROCEDURAL HISTORY

Plaintiff was employed as a temporary teacher at Walter L. Cohen Senior High School. At the end of the school year, the principal of the school, Leroy Gray, sent a memorandum to Cossette West, an administrator in the Orleans Parish School Board's human resources department, concerning plaintiff's school assignment. In its entirety, the memorandum read:

> Mr. Vernon Tatum was assigned to Cohen School during the 1988-89 and 1989-90 school sessions. He served as a school site substitute teacher in 1988-89 and a science teacher in 1989-90.
>
> It is recommended that Mr. Tatum not be returned to Cohen School.
>
> Thank you for your consideration.

Based on the letter, the plaintiff filed the instant lawsuit entitled "Defamation of Character and/or Tort Against the Orleans Parish School Board" in February of 1996. On May 12, 2004, the Orleans Parish School Board filed a

Motion for Summary Judgment, seeking dismissal on the grounds that no defamation occurred. The trial court determined the letter was not defamatory and granted the motion as it pertained to defamation, dismissing that claim with prejudice, "reserving unto plaintiff any other causes of action that may have been asserted in his Petition, as amended." Plaintiff subsequently filed an appeal with this Court and the granting of that partial summary judgment was affirmed. Subsequently, the Supreme Court denied writs.

Mr. Tatum's remaining causes of action were set to go to trial on August 18, 2010. After additional discovery, the School Board filed an exception of prescription or in the alternative a motion for summary judgment. There was a hearing on April 8, 2011 at which time the trial court denied the School Board's exception of prescription and granted its motion for summary judgment. This appeal followed.

Appellate courts apply a *de novo* standard in reviewing the trial court's granting of a motion for summary judgment. *Wood v. Del Giorno,* 2006-1612, p. 3 (La.App. 4 Cir. 12/19/07), 974 So.2d 95, 98.

On appeal, Mr. Tatum challenges the sufficiency of the motion for summary judgment claiming that it was not supported by documentation. In Louisiana, it is well established that summary judgment is warranted "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 material fact, and the mover is entitled to judgment as a matter of law." La. C.C.P. art. 966(B); *Jones v. Estate of Santiago*, 03-1424 (La. 4/14/04), 870 So.2d 1002, 1006. The initial burden of proof remains with the mover to show that no genuine issue of material fact exists. If the mover has made a prima facie showing that the motion

should be granted, the burden shifts to the non-moving party to present evidence demonstrating that a material factual issue remains. The failure of the non-moving party to produce evidence of a material factual dispute mandates the granting of the motion. La. C.C.P. art. 966C(2). *Hutchinson v. Knights of Columbus, Council No. 574*, 03-1533, (La. 2/20/04), 866 So.2d 228, 233.

The School Board's motion for summary judgment provided the trial court with a comprehensive briefing of their arguments that Mr. Tatum's sole remedy was to have the memorandum removed from his employee file and the demand for monetary damages was unfounded. Attached to the motion for summary judgment was: 1) this Court's previous opinion finding that the memorandum was not defamatory; 2) the denial of writs by the Supreme Court; 3) a copy of plaintiff's deposition; 4) a copy of the letter in question; 5) two Attorney General opinions clarifying the provisions of statutes related to the "School Employee Personnel Files Act"; 6) a copy of the United Teachers of New Orleans Teacher Bargaining Agreement; and 7) Mr. Tatum's answers to discovery interrogatories.

Since it was determined that the memorandum was not defamatory, the School Board asserts that the only remedy available to Mr. Tatum under these circumstances is to have the unsigned document removed from his employee file. *See* La. R.S. 171231, *et seq*.; *see also* Op. Atty. Gen. 01-0469m February 5, 2002, *see also* Op. Atty. Gen. 05-0338, November 7, 2005. We agree. In the absence of any wrong doing, which there is no evidence of, monetary damages are not available to Mr. Tatum for an unsigned memorandum being placed into his employee file.

Since the filing of his petition, Mr. Tatum has failed to provide any evidence to support his claims that there was a conspiracy to end his teaching career in retaliation for a statement he made at a Louisiana High School Athletic Association hearing. The unsigned memorandum has since been removed from his employee file in accordance with the School Board regulations. Thus, no genuine issues of material fact remain.

Mr. Tatum also suggests that the trial court judge should have recused himself. The transcript of the hearing provides us with the trial court's disclosure that he knew the plaintiff and several of the people originally named in the lawsuit including past School Board member Maudelle Cade who is married to his cousin. Based on the disclosure, there are no grounds that would mandate the trial court judge's recusal. *See* La. C.C.P. art. 151. Additionally, neither party objected to the judge presiding over the matter once the disclosure had been made.

Lastly, Mr. Tatum argues that the judgment is not valid because there were no written reasons provided. Trial courts are not required to provide written reasons with judgments unless written reasons are requested by a party. *See* La. C.C.P. art. 1917. A full review of the record indicates that there were no requests made for written reasons, therefore there was no error on the part of the trial court.

Accordingly, we affirm the trial court's granting of the summary judgment in favor of the Orleans Parish School Board.

AFFIRMED