

STATE OF MICHIGAN
COURT OF APPEALS

NORDE JAMES III,

Plaintiff-Appellee,

v

ISAAH MCKINNON, CITY OF DETROIT and
MEMBERS OF THE BOARD OF POLICE
COMMISSIONERS,

Defendants-Appellants.

UNPUBLISHED

February 25, 2000

No. 212186

Wayne Circuit Court

LC No. 97-722388 NO

Before: Cavanagh, P.J., and White and Talbot, JJ.

MEMORANDUM.

Defendants appeal by leave granted the trial court's order granting plaintiff's motion to compel the production of documents in a wrongful discharge suit brought under the Whistleblowers' Protection Act (WPA), MCL 15.361 *et seq.*; MSA 17.428(1) *et seq.* This Court granted defendants leave to file this interlocutory appeal. We affirm.

Defendants argue that the trial court abused its discretion in ordering the production of sergeant and lieutenant promotional examinations, including answers and scoring records and, for in camera review, the internal affairs investigation files of two individuals regarding examination cheating. We disagree. This Court reviews a trial court's decision to grant or deny discovery for an abuse of discretion. *Mercy Mt Clemens Corp v Auto Club Ins Ass'n*, 219 Mich App 46, 50; 555 NW2d 871 (1996).

"Michigan law is strongly committed to open and far-reaching discovery and generally provides for discovery of any relevant, nonprivileged matter." *LeGendre v Monroe Co*, 234 Mich App 708, 721-722; 600 NW2d 78 (1999); see also MCR 2.302(B)(1). Evidence is relevant when it has any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable that it would be without the evidence. MRE 401; *Yates v Keane*, 184 Mich App 80, 82; 457 NW2d 693 (1990). Where necessary, a trial court may enter a protective order to govern the method and scope of discovery. MCR 2.302(C); *Domako v Rowe*, 438 Mich 347, 362; 475 NW2d 30 (1991).

After a thorough review, we find no abuse of discretion. Although defendants correctly observe that plaintiff's success under the WPA does not depend upon the validity of the allegations of misconduct, the validity of the allegations may nonetheless be relevant to defendants' motives to terminate plaintiff's employment. Plaintiff alleged that he was terminated from the Detroit Police Department after he informed then Chief of Police, defendant Isaiah McKinnon, that he received information that some department members may have obtained copies of the promotional examinations in advance, and that he intended to pursue criminal charges against all persons involved. The examination materials and internal investigation files could reveal the validity of the alleged impropriety and thus lend support to plaintiff's claims that defendants' true motivation for terminating plaintiff was to conceal the fact that the alleged impropriety was connected to McKinnon and his staff, and/or to punish plaintiff for vowing to pursue the matter. *Eckstein v Kuhn*, 160 Mich App 240, 246; 408 NW2d 131 (1987). Furthermore, in light of the comprehensive protective order the trial court entered with respect to the requested documents, we find no merit to defendants' claim that their production would compromise the integrity of federal¹ and internal investigations, possible future criminal investigations, and future examinations.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Helene N. White

/s/ Michael J. Talbot

¹ The federal investigation is closed.