

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Ryan Harp,

Plaintiff,

v.

South Carolina Law Enforcement Division,
 Richland County Sheriff's Department, Leon
 Lott, in his individual and official capacity as
 Sheriff of Richland County, Mark Keel, in his
 individual and official capacity as Chief of South
 Carolina Law Enforcement Division, David
 Mattox, in his individual and official capacity as
 an Officer of South Carolina Law Enforcement
 Division,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2023-CP-40-04075

ORDER

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SC Court of Appeals

This matter comes before this Court by way of a motion for judgment on the pleadings on behalf of the Defendants Richland County Sheriff's Department ("RCSD") and Leon Lott, in his individual and official capacity as Sheriff of Richland County. A hearing on these motions¹ was held via virtual courtroom on August 20, 2024. Appearing at the time and presenting oral arguments were counsel for the Plaintiff, Shannon M. Polvi, and for these Defendants, Robert D. Garfield. For the reasons discussed herein, this Court grants these Defendants' motions.

I. FACTUAL BACKGROUND

The Plaintiff's Amended Complaint alleges that he was a career public service officer formerly employed by SLED. Harp was a helicopter pilot with SLED for about two and a half years. *See* Am. Comp., ¶¶ 9,10.

In 2021, while the Plaintiff's home was under construction, he had ongoing issues with the contractor. *Id.*, ¶ 11. In late spring 2021, there was a dispute between the Plaintiff and his contractor over the delivery and whereabouts of cabinetry items. *Id.* ¶¶ 12-14. In June 2021, the contractor

¹ These Defendants also filed a motion pursuant to Rule 15(a), SCRCP, to add an affirmative defense to its Answer to the Amended Complaint as follows: "*The Plaintiff's claim is barred, in whole or in part, by South Carolina Code Ann. § 23-23-90.*" This Court views such an amendment is necessary to conform to the evidence in this matter; would not cause any legal prejudice to the Plaintiff; and is in the interests of justice. For these reasons, these Defendants' motion to amend is granted.

reported to RCSD that some cabinets were missing. *Id.*, ¶ 14. RCSD Investigator Michael Laurita was assigned to the contractor's complaint. *Id.*, ¶ 15. In his investigation, Laurita spoke with the contractor and the Plaintiff regarding the missing cabinets. *Id.* ¶¶ 15-17. According to the Amended Complaint, during his conversation with Laurita, "Harp denied knowledge of the cabinets with Harp explaining that he did not know about any missing cabinets on his property. Their conversation was brief." *Id.*, ¶ 17.

In written correspondence to SLED Chief Keel dated July 9, 2021, Sheriff Lott requested that SLED conduct an internal investigation regarding alleged misconduct against the Plaintiff. *Id.*, ¶ 19. In this letter, the Sheriff asserted false allegations that Harp engaged in misconduct and made untruthful statements to law enforcement. *Id.*, ¶ 21. This communication prompted Keel to initiate an internal investigation into the matter. *Id.*, ¶ 22. Per the Amended Complaint, in August 2021, "the same defamatory statements and claims made against Harp by the RCSD were repeated to the SLED OPR investigator by Laurita, and possibly others from RCSD." *Id.*, ¶ 24. This resulted in SLED terminating the Plaintiff in late August 2021. *Id.*, ¶ 25.

In his Amended Complaint, the Plaintiff alleges defamation, abuse of process and tortious interference with contractual relationships against RCSD and Sheriff Lott as a result of his termination from SLED in August 2021. *Id.*, ¶¶ 66-87, 98-104.

II. LEGAL STANDARD

"Any party may move for a judgment on the pleadings under Rule 12(c), SCRCP. When considering such motion, the court must regard all properly pleaded factual allegations as admitted." *Falk v. Sadler*, 341 S.C. 281, 286, 533 S.E.2d 350, 353 (Ct. App. 2000). "On review of the motion, the court may not consider matters outside the pleadings." *Id.* In evaluating a Rule 12(c) motion, the court must consider that "a complaint is sufficient if it states any cause of action or it appears that the plaintiff is entitled to any relief whatsoever. Our courts have held that pleadings in a case should be construed liberally so that substantial justice is done between the parties." *Id.* at 287, 533 S.E.2d at 353; *see also Pope v. Wilson*, 427 S.C. 377, 384, 831 S.E.2d 442, 445-46 (Ct. App. 2019).

A judgment on the pleadings shall be granted "where there is no issue of fact raised by the complaint that would entitle the plaintiff to judgment if resolved in plaintiff's favor." *Sapp v. Ford Motor Co.*, 386 S.C. 143, 687 S.E.2d 47 (2009) citing *Russell*, *Supra*.

III. ANALYSIS

In his Amended Complaint, the Plaintiff alleges that RCSD and Sheriff Lott defamed him for "stating that Harp committed misconduct, as specified in S.C. Code Ann § 23-23-150." *See Am. Comp.*, ¶ 68.

These Defendants argue that any communications they may have made regarding the Plaintiff are privileged and no cause of action may arise out of such communications. Specifically, they assert that the Sheriff's July 9, 2021 letter constitutes a communication protected by S.C. Code Ann. § 23-23-90, which states, in part, that:

An oral or written report, document, statement, or other communication that is written, made, or delivered concerning the requirements or administration of this chapter or regulations promulgated pursuant to it must not be the subject of or basis for an action at law or in equity in any court of the State if the communication is between (1) law enforcement agencies, their agents, employees, or representatives ...

These Defendants point out that since such communications were between "law enforcement agencies, their agents, employees, or representatives," and therefore cannot serve as the basis for a lawsuit under S.C. Code Ann. § 23-23-90. *See e.g. Montgomery v. Spartanburg Cnty. Assessor*, 419 S.C. 77, 81, 795 S.E.2d 866, 868 (Ct. App. 2016) ("In interpreting a statute, words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation.") (Internal citations and quotations omitted). This Court agrees. In regarding all properly pleaded factual allegations as admitted, the communications arising from the investigation into the Plaintiff's alleged misconduct concern Chapter 23 of Title 23 of the South Carolina Code. Consequently, any such communications are privileged and cannot be the basis for any action at law, including the Plaintiff's claims against these Defendants for defamation, abuse of process, and tortious interference with contractual relationships.

CONCLUSION

Based upon the foregoing reasons, **IT IS ORDERED** that the Motion for Judgment on the Pleadings on behalf of the Defendants RCSD and Sheriff Lott is **GRANTED** and that the Amended Complaint with respect to these Defendants are hereby dismissed with prejudice.

IT IS SO ORDERED.

The Honorable Jocelyn Newman
Circuit Court Judge

Columbia, South Carolina
February ____, 2025



Richland Common Pleas

Case Caption: Ryan Harp vs South Carolina Law Enforcement Division , defendant,
et al
Case Number: 2023CP4004075
Type: Order/Other

So Ordered

Jocelyn Newman