

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)
Jada Garris,)
)
Plaintiff,)
v.)
Lexington School District One,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

Case No.: 2017-CP-32-04435

DECISION OF THE COURT

RECEIVED

May 12 2020

SC Court of Appeals

This matter came before the Court on Defendant’s Motion for Reconsideration after a bench trial on five separate alleged violations of the Freedom of Information Act, S.C. Code Ann. §§ 30-4-10, et seq., known as FOIA. The Court DENIES Defendant’s motion.

Introduction

Plaintiff Jada Garris, a former Lexington School District One bus driver and current member of the Defendant Lexington School District One School Board (“the Board”), alleged at trial that the Defendant Board committed five violations of the Freedom of Information Act, SC. Code Ann. §§ 30-4-10, et seq. (“FOIA.”) After a bench trial, the Court found for Plaintiff on one of the five alleged violations of FOIA, but found for Defendant on all other counts. The Court then awarded Plaintiff attorneys fees and costs of \$48,995.80 under S.C. Code Ann. § 30-4-10. Defendants then filed this Motion to Reconsider the fee award.

Factual Basis:

Defendants challenge the Court’s award on three basis: 1) that there was no evidence in the record that Plaintiff voluntarily dismissed several of her allegations because she received documents requested under FOIA during the pendency of the lawsuit; 2) that Plaintiff is not the

prevailing party in the underlying matter and 3) that because Defendant prevailed on one factor of the *Burton* test, Plaintiff should not have been awarded her full costs and fees. The Court disagrees.

Analysis:

- I. There was unrebutted testimony at trial that Plaintiff dismissed several of her allegations against Defendant only after Defendant turned over documents requested by the Plaintiff under FOIA.

There was unrebutted testimony at trial that Plaintiff received several documents from the Defendant during the pendency of this litigation. Though Defendants now argue that they substantially complied with all FOIA requests prior to trial, and only turned over one responsive document during the pendency of the trial. However, that was not reflected in the trial evidence. In fact, Plaintiff Garris testified she did not receive the last of the requested documents until June 2019, approximately 18 months after this action was filed. The Court therefore denies Defendant's Motion on this ground.

- II. Plaintiff is the prevailing party in this matter, and as such is statutorily entitled to recover her attorney's fees and costs.

Under both the provisions of FOIA and relevant case law also cited in the previous Order, Plaintiff was and is the prevailing party. There was unrebutted trial testimony that several allegations were dismissed prior to trial only after documents were produced during litigation. Additionally, Plaintiff prevailed on another allegation at trial, proving that the Defendant violated FOIA. Defendant argues that because Plaintiff only prevailed on one allegation out of five, Defendant is in fact the prevailing party. The Court disagrees. Each side prevailed in part. Although S.C. Code Ann. § 30-4-100 does state "If the person or entity prevails in part, the court may in its discretion award him reasonable attorney's fees **or** an appropriate portion of those attorney's fees" (emphasis added), the Court has discretion to either award the full amount or a

partial amount in this situation. In the Court's view, awarding some fraction of the attorney's fees would greatly reduce the incentive for filing FOIA claims. The Court also notes this matter went all the way to a trial, and the Plaintiff did prevail in part at trial. The Court therefore exercises its discretion and awards the full amount of fees. The Court denies Defendant's Motion on this ground.

III. The evidence provided by the Plaintiff as to the *Burton* factors justifies awarding Plaintiff her full costs and fees.

Defendant argues that Plaintiff's degree of success in the main action was minimal, in their opinion, and as such so the award of attorney's cost and fees should be reduced. Though Defendant is correct that Plaintiff only prevailed on one allegation of a violation of FOIA, the degree of a party's success must be measured as a whole. Here, even after being forced to turn over documents during the pendency of this litigation, the Defendant never conceded that they violated FOIA, forcing the Plaintiff to proceed to trial. Plaintiff then successfully proved at trial that Defendant violated FOIA. Reading *Burton* in the way argued by Defendant would mean the only way a prevailing party would receive the full amount of reasonable fees expended would be to prevail on every cause of action. This is not the law. A determination of the appropriate award of attorney's fees and costs is within the discretion of the Court, and in this case the Court has determined that Plaintiff is legally entitled to recover the full amount of \$48,995.80.

Additionally, Defendant argued that the Court misunderstood their position as to whether they wished to challenge the amount of time Plaintiff's attorneys spent on the underlying case, as well as the amount each of Plaintiff's attorneys charged as an hourly fee. However, Defendant offered no affidavits of other attorneys directly challenging the fee each attorney charged as unreasonable or challenging the amount of time each spent on the underlying matter. In fact, the only evidence that the Defendant offered to challenge Plaintiff's assertions were affidavits from

attorneys on cases entirely separate from the underlying matter. In considering Plaintiff's counsel's assertions and Defendant's affidavits, the Court determined that both the fees charged by Plaintiff's counsel, and the amount of time billed, were reasonable. The Court does not see any basis to disturb that ruling today.

Finally, S.C. Code Ann. § 30-4-100 explicitly permits full attorney's fees to be awarded to a party who prevails only in part. The Court has chosen to do so in this case to prevent discouraging future FOIA plaintiffs.

Defendant's motion is denied on this ground.

Conclusion:

For the reasons set forth above, the Court DENIES Defendant's Motion to Reconsider on all grounds. The amount owed shall be paid to Plaintiff within fourteen (14) days of this order.

IT IS SO ORDERED.

THIS THE ____ DAY OF _____, 2020.

THE HONORABLE WILLIAM A. MCKINNON



Lexington Common Pleas

Case Caption: Jada Garris VS Lexington County School District One
Case Number: 2017CP3204435
Type: Order/Other

So Ordered

/s William A. McKinnon, #2761, Circuit Judge

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