

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Skip Hoagland,

Plaintiff,

v.

John Tecklenburg, in his Official capacity,
the City of Charleston, and the City of
Charleston Police Department,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2018-CP-10-03441

ORDER ON DEFENDANTS'
MOTION TO DISMISS

RECEIVED

Jun 29 2020

SC Court of Appeals

Defendants filed a Motion to Dismiss pursuant to Rule 12(b)(6), SCRPC. Due to the restrictions in place during the COVID-19 crisis, the Court requested that the parties submit briefs in support and opposition to the Motion, and also gave the parties the option of having a hearing through video conferencing. The parties agreed to have the Court consider and rule upon the motions on briefs alone. Thereafter, the parties submitted briefs, which this Court closely considered, and after having reviewed the arguments submitted by the parties, this Court is granting the Defendants' Motion to Dismiss.

This matter arises from a May 25, 2018, City Council meeting where Plaintiff began making a speech during the public comment session. However, after he called a woman a liar, the Mayor declared Plaintiff out of order and had a City of Charleston Police Officer remove Plaintiff from City Hall. Plaintiff has alleged violations of constitutional rights, a violation of the Freedom of Information Act ("FOIA"), and Civil Conspiracy.

This Court finds that the Mayor possesses the ordained power to maintain decorum at City Council meetings and may utilize his discretion in doing so. The police department must act at

the direction of the Mayor during City Council meetings and at no time was the plaintiff under arrest. Based on the facts as alleged in his Complaint, Plaintiff has not stated facts sufficient to state a claim of constitutional magnitude. Rather, the facts as alleged by Plaintiff are that the Mayor made a discretionary decision to remove Plaintiff from a City Council and the police department followed the direction of the Mayor to remove Plaintiff. These actions are entirely within the Defendants' rights as outlined in City of Charleston Ordinances. As such, Plaintiff's claims regarding constitutional violations should be dismissed.

Further, the meeting in question remained open and was open to the public, and the plaintiff was capable of viewing remotely. Therefore, Plaintiff's claim that his removal transformed the City Council meeting into a closed session or otherwise not open meeting in violation of FOIA are without merit.

Finally, Plaintiff has not alleged facts sufficient to constitute a claim for Civil Conspiracy. Plaintiff has failed to allege any separate and distinct acts to further the conspiracy or any separate special damages other than those that have been alleged in his other causes of action. Therefore, his civil conspiracy claim cannot proceed. As an additional ground, the factual allegations in this case show that the alleged conspirators were all City of Charleston employees. The claims against the Mayor are for actions taken in his Official Capacity, meaning as an employee of the City and there is no allegation that the Police Department employee was acting outside the course and scope of his employment. As an agency or corporation cannot conspire with itself, Plaintiff's Civil Conspiracy claim does not have merit based on the Intracorporate Conspiracy Doctrine.

THEREFORE, IT IS ORDERED that Plaintiff has not stated facts sufficient to constitute a cause of action, and pursuant to Rule 12(b)(6), of the South Carolina Rules of Civil Procedure,

Defendants' Motion to Dismiss is hereby granted, ending this matter and dismissing Plaintiff's claims with prejudice.

AND IT IS ORDERED!

The Honorable Judge Bentley Price

May ____, 2020



Charleston Common Pleas

Case Caption: Skip Hoagland VS John Tecklenburg

Case Number: 2018CP1003441

Type: Order/Dismissal

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766