

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

James Earl Tegeler,

Plaintiff(s),

vs.

Charlotte Collier, Hannah Elizabeth Collier,
Linda Smith, Northgate Baptist Church,

Defendant(s).

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL
CIRCUIT

CASE NO.: 2020-CP-23-01213

ORDER DISMISSING CHARLOTTE

COLLIER

RECEIVED

Nov 19 2020

SC Court of Appeals

This matter came before the court on August 18, 2020 upon motion of Charlotte Collier pursuant to SCRCP 12(c) for dismissal on the pleadings. It was heard at the same hearing as Motions to Dismiss filed by the Defendants Hannah Collier, Linda Smith and Northgate Baptist Church. For the reasons stated herein, the Defendant Charlotte Collier's motion is granted and this case is dismissed as to Charlotte Collier.

ALLEGATIONS OF THE COMPLAINT

Plaintiff Tegeler, formerly a worship leader at Northgate Baptist Church, sued Charlotte Collier, the mother of then 18-year-old Hannah Collier because of a meeting Mrs. Collier and her daughter had with Pastor Jimmerson the head pastor of Northgate Church on March 12, 2018. Plaintiff alleges in that meeting Mrs. Collier told Pastor Jimmerson that she believed the relationship of James Tegeler, a gentleman in his fifties who was at that time employed by the church, with her eighteen year old daughter was "inappropriate." (Complaint P. 59) The Complaint further alleges that in that meeting, Hanna Collier told Pastor Jimmerson that the relationship was not romantic, and that they had not had sexual or intimate relations. (Complaint P. 60 – 61) Plaintiff alleges that the next day, Plaintiff showed Pastor Jimmerson, and later Ms. Shaler, the chair of the church

personnel committee, a text from Hannah Collier to Plaintiff. (Complaint P. 64) The Complaint states that Shaler perceived from the text shown to her by Plaintiff that the relationship was inappropriate. (Complaint p. 72) Plaintiff alleges that Ms. Shaler started an investigation of him based upon the text he showed her. (Complaint P. 72) Plaintiff alleges that this investigation involved his relationships with other young girls besides the Defendant Hanna Collier. (Complaint P. 74) At the end of the investigation, Northgate asked Plaintiff to resign from his position as worship leader in the church. (Complaint P. 97) Plaintiff has sued the Church for false imprisonment, fraud in the inducement, negligent misrepresentation and negligent hiring. Plaintiff has sued all Defendants for defamation, intentional infliction of emotional distress, negligent infliction of emotional distress and civil conspiracy. The court will address in this order the claims against Charlotte Collier.

LEGAL STANDARD

"After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings." Rule 12(c), SCRPC. When considering such motion, the Court must regard all properly pleaded factual allegations as admitted, and any inference of law or conclusions of fact that may properly arise therefrom are to be regarded as embraced in the averment. Falk v. Sadler, 341 S.C. 281, 533 S.E.2d 350 (Ct. App. 2000). However, the court will not admit inferences drawn by the plaintiff from such facts, nor will it admit conclusions of law. Fireman's Ins. Co. v. Cincinnati Ins. Co., 302 S.C. 234, 235, 394 S.E.2d 855, 856 (Ct. App. 1990). 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).

PLAINTIFF'S CLAIMS

Defamation

Plaintiff has alleged that Charlotte Collier told the Pastor of her church that she believed the relationship between the 50+-year-old worship leader and her 18 year old daughter was inappropriate. This is the alleged defamatory statement-giving rise to the defamation claim. Both Hanna and Charlotte Collier denied in that meeting that the relationship was sexual or romantic in nature. Plaintiff alleges that he had established a mentorship over Hanna Collier that involved "redirecting her behavior" and listening to details regarding her parents' divorce and family life. Plaintiff alleges that Hanna Collier told him about her mental illnesses, eating disorders and other very personal and sensitive information. Plaintiff alleges that Hanna Collier told him she was under psychiatric treatment. Plaintiff alleges he gave Hanna Collier financial gifts. He alleges he invited Hanna Collier on out of town trips. Plaintiff admits he had a "position of influence" over this 18-year-old girl. Plaintiff alleges that after he had come to believe the "mentorship" of Hanna Collier was unproductive he invited her to a birthday party for his son. He alleges that he was unhappy she used her cell phone at the table in light of the fact that she was "aware of Plaintiff's rule amongst Plaintiff's family at mealtimes that no one was permitted to have a cell phone at the table." (Complaint P. 56) and he attempted "redirected" her behavior even after the "mentorship" had ended.

The question presented is whether the Defendant Charlotte Collier's characterization of this relationship as "inappropriate" to her Pastor and Plaintiff's employer is defamatory. The elements of defamation include: (1) a false and defamatory

statement concerning another; (2) an unprivileged publication to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. Holtzscheiter v. Thomson Newspapers, Inc., 332 S.C. 502, 506 S.E.2d 497 (1998).

Plaintiff appears to argue that the Defendant Charlotte Collier's statement that she believed the relationship between the 50 something year old worship leader and her 18 year old daughter was "inappropriate" equates to calling it sexual. However the Complaint goes on to plead that the Defendant and her daughter told Pastor Jimmerson clearly the relationship was not sexual or romantic. (Complaint p. 61, 62) Therefore there is no need to resort to the doctrine of innuendo with regard to the alleged defamatory statement.¹

The court must first address whether Charlotte Collier's statement to the Pastor of her church and Plaintiff's employer was a statement of fact or opinion. A statement, which is opinion, cannot be defamatory. Our courts have held that facts are statements that can be proven true or false; by contrast, opinions are matters of belief or ideas that cannot be proven one way or the other. Moreover, because a statement must be false to be defamatory, a statement of opinion cannot form the basis of a defamation claim because it cannot be proven true or false. Specifically, under the First Amendment, there is no such thing as a false idea. Garrard v. Charleston Cty. Sch. Dist., 429 S.C. 170, 198, 838 S.E.2d 698, 713 (Ct. App. 2019).

Charlotte Collier's statement that she believed the non-sexual non-romantic

¹ "Innuendo is extrinsic evidence used to prove a statement's defamatory nature. It includes the aid of inducements, colloquialisms, and explanatory circumstances." Parrish v. Allison, 376 S.C. 308, 325 n.1, 656 S.E.2d 382, 391 n.1 (Ct. App. 2007)

relationship described in the Complaint between her 18 year old daughter and the 50+ year old worship leader to be inappropriate is an opinion. It can be neither true nor false and thus cannot form the basis of a defamation claim.

Additionally the Complaint alleges that the statement that Charlotte Collier considered the relationship between a 50+ year old employee of the church and her 18 year old daughter to be inappropriate was made privately to the Pastor of the church and employer of the Plaintiff. This is the only alleged publication of the alleged defamatory statement by Charlotte Collier. Under the facts as alleged that statement would be subject to qualified privilege, which has been plead as an affirmative defense². Under this defense, one who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused. Restatement (Second) of Torts § 593 (1977); see Bell v. Bank of Abbeville, 208 S.C. 490, 38 S.E.2d 641 (1946). In Bell, the Court held that in determining whether or not the communication was qualifiedly privileged, regard must be had to the occasion and to the relationship of the parties. Id at 493. When one has an interest in the subject matter of a communication, and the person (or persons) to whom it is made has a corresponding interest, every communication honestly made, in order to protect such common interest, is privileged by reason of the occasion. Id at 494. The statement, however, must be such as the occasion warrants, and must be made in good faith to protect the interests of the one who makes it and the

² Defendant's motion is made pursuant to SCRCP 12 (c) and therefore this court may consider the application of the affirmative defenses contained therein. No response to those affirmative defenses or any other matter contained in the Answer was filed by the Plaintiff.

persons to whom it is addressed. Id.

Plaintiff alleges that his relationship with Hanna Collier was taking place with the full knowledge of the leadership of the Church while the Church employed him. The Complaint alleges Charlotte and Hanna Collier were clear in their discussions with their Pastor and Plaintiff's employer that the relationship was not romantic or sexual. Plaintiff's employer and alleged supervisor of the relationship would be the person with an interest in the subject matter. The statement was opinion, was measured and did not go beyond what would be necessary to express and communicate parental concern. Our Courts have previously found the qualified privilege applies "to situations in which an employee's job performance is properly evaluated." Wright v. Sparrow, 298 S.C. 469, 474, 381 S.E.2d 503, 506 (Ct. App. 1989). Harris v. Tietex Int'l, Ltd., 417 S.C. 533, 540, 790 S.E.2d 411, 415 (Ct. App. 2016). Based on the facts alleged in the Complaint the defense of qualified privilege plead in the answer would bar the Plaintiff's claim. To hold otherwise would give a parent no recourse under these facts to express her concerns.

Lastly, even if the statement of Mrs. Collier that she considered the relationship between the Plaintiff and her daughter to be inappropriate was fact instead of opinion, the statement was true based upon the Complaint. The Plaintiff's description of the relationship as stated in the Complaint are as follows:

- He is an adult male who has placed himself in a supervisory position over an 18 year old Defendant (Complaint P. 17)
- He was giving the 18 year old Defendant financial gifts (Complaint P. 18)
- Plaintiff alleges the 18 year old Defendant was vulnerable (Complaint P. 23)
- Plaintiff alleges he decided to form a mentoring relationship with an 18 year old female (Complaint P. 27)
- Plaintiff invited the 18 year old to social gatherings and on trips (Complaint P. 31)

- Plaintiff reported on observations, assessments and issues of an 18 year old girl to church staff Complaint (P. 36)
- Plaintiff became a confidant to 18 year old girl for her personal issues and family issues (Complaint P. 38)
- Others noticed the vulnerable 18-year-old Defendant being expressive and affectionate toward the Plaintiff. (Complaint PP. 42 and 43)
- Plaintiff attempted to “redirect” the anger of the 18 year old Defendant in a public setting and the Defendant did not respond well to this. (Complaint P. 45)
- Hannah Collier was sending text messages to the Plaintiff “expressing daughterly affection” toward Plaintiff. (Complaint P. 64)
- After the Plaintiff alleges that the mentorship was not working and was “reduced and limited” (Complaint P. 53) he invited the 18 year old Plaintiff to a family birthday party then corrected her behavior with regard to her cell phone usage at the table.

Plaintiff’s Complaint presumes that the only type of inappropriate relationship is a sexual relationship. To the extent there could be any confusion about this Plaintiff alleges that Hannah Collier specified the relationship was not sexual or romantic. Considering the age discrepancy between Plaintiff and Hannah Collier and that Plaintiff had chosen to place himself in a position of authority over a girl he alleges to be vulnerable and mentally unstable, it is not surprising that a parent would consider this relationship inappropriate, regardless of whether it was sexual in nature.

Outrage

To recover for the intentional infliction of emotional distress, a Plaintiff must establish (1) the defendant intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from his conduct; (2) the defendant’s conduct was so extreme and outrageous that it exceeded all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community; (3) the actions of the defendant caused the plaintiff’s emotional distress; and

(4) the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it. Fleming v. Rose, 338 S.C. 524, 536-37, 526 S.E.2d 732, 739 (Ct. App. 2000).

The court determines, from the materials before it, whether the defendant's conduct may reasonably be regarded as so extreme and outrageous as to permit recovery. See McSwain v. Shei, 304 S.C. 25, 402 S.E.2d 890 (1991). See also Andrews v. Piedmont Air Lines, 297 S.C. 367, 377 S.E.2d 127 (Ct. App. 1989) (question of whether defendant's conduct may be reasonably regarded as so extreme and outrageous as to allow recovery for outrage is question for court to determine). The majority of cases finding outrageous conduct generally require "hostile or abusive encounters" or "coercive or oppressive conduct." See Gattison v. South Carolina State College, 318 S.C. 148, 456 S.E.2d 414 (Ct. App. 1995); Wright v. Sparrow, 298 S.C. 469, 381 S.E.2d 503 (Ct. App. 1989).

The Complaint in this case is factually detailed. Here, there is no allegation of any hostile or abusive encounter by Charlotte Collier or any suggestion of coercive or oppressive conduct. There are no facts to establish the conduct of Charlotte Collier was so extreme and outrageous as to constitute intentional infliction of emotional distress. Plaintiff alleges that Charlotte Collier met with the pastor of her church to discuss her concerns regarding the non-sexual nonromantic relationship her 18 year old daughter was involved in with a 50 something year old male church employee. The facts alleged fall short of conduct that exceeds all possible bounds of decency. Further, this action as alleged would not be regarded as atrocious and utterly intolerable in a civilized society. The Plaintiff's detailed and fact specific Complaint fails to state a claim for outrage.

Negligent Infliction of Emotional Distress

In Kinard v. Augusta Sash & Door Co., the South Carolina Supreme Court adopted the cause of action for negligent infliction of emotional distress with the following elements: (a) the negligence of the defendant must cause death or serious physical injury to another; (b) the plaintiff bystander must be in close proximity to the accident; (c) the plaintiff and the victim must be closely related; (d) the plaintiff must contemporaneously perceive the accident; and (e) the emotional distress must both manifest itself by physical symptoms capable of objective diagnosis and be established by expert testimony. Stewart v. State Farm Mut. Auto. Ins. Co., 341 S.C. 143, 154, 533 S.E.2d 597, 603 (Ct. App. 2000) (citing Kinard v. Augusta Sash & Door Co., 286 S.C. 579, 582–83, 336 S.E.2d 465, 467 (1985)). The South Carolina Supreme Court has strictly limited this cause of action to the “bystander liability” scenario. Id.

The facts as alleged do not fall within the parameters of Negligent Infliction of Emotional distress.

Civil Conspiracy

The Plaintiff alleges that Charlotte Collier individually and collectively with the other Defendants were joint and several tortfeasors conspiring together to injure the Plaintiff. The Plaintiff does not include any allegations of fact or damages in support of his purported civil conspiracy cause of action that are different from the elements that he attempts to establish for his other purported causes of action. “In a civil conspiracy claim, one must plead additional acts in furtherance of the conspiracy separate and independent from other wrongful acts alleged in the complaint, and the failure to properly plead such acts will merit the dismissal of the claim.” Hackworth v. Greywood at Hammett, LLC, 385

S.C. 110, 115–16, 682 S.E.2d 871, 875 (Ct. App. 2009). “[B]ecause the quiddity of a civil conspiracy claim is the special damage resulting to the plaintiff, the damages alleged must go beyond the damages alleged in other causes of action.” *Id.*, 385 S.C. at 115, 682 S.E.2d at 874. Otherwise, the parties are just joint tortfeasors. For this reason, the purported cause of action against Charlotte Collier for civil conspiracy must be dismissed.

Dismissal with Prejudice

Plaintiff in this case has filed a 215-paragraph Complaint. His Complaint contains a 115-paragraph statement of facts, which goes into extraordinary detail as to the events surrounding the alleged defamatory statements made by Charlotte Collier. This dismissal is not based on a paucity of pled facts, but instead is granted because under the extremely detailed facts of the Complaint, Plaintiff fails to state a claim for relief Defendant submitted no affidavits in support of her motion. Plaintiff responded to Defendants’ motion to dismiss with a 100-page filing including Exhibits of texts between Plaintiff and Hanna Collier most of which support Defendant Charlotte’s opinion that the relationship between her daughter and Plaintiff is not appropriate. Plaintiff’s filings also contain an affidavit of the Deacon of the Defendant Northgate Baptist Church, texts between Hanna Collier and another church member, Plaintiff’s counsel’s response to Defendants Hannah Collier and Linda Smith’s Rule 11 letter, emails between Charlotte Collier and the Plaintiff and emails and texts between church employees and members and Plaintiff. The Plaintiff cannot convert the Defendant’s motion to one for summary judgment by unilaterally presenting affidavits. Those affidavits are not part of this court’s review as to the sufficiency of the pleadings. However, after reviewing these affidavits in addition to the numerous fact specific

allegations of the Complaint, it is clear that any amendment to this Complaint would be futile. For this reason, the dismissal is with prejudice.

IT IS THEREFORE ORDERED AND ADJUDGED that the Plaintiff's Complaint as to Charlotte Collier be dismissed with prejudice.

The Hon. Alex Kinlaw, Jr.
Presiding Judge, 13th Judicial Circuit

September _____, 2020



Greenville Common Pleas

Case Caption: James Earl Tegeler vs. Northgate Baptist Church , defendant, et al

Case Number: 2020CP2301213

Type: Order/Dismissal

So Ordered

s/Alex Kinlaw, Jr., #2763