

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL
CIRCUIT

James Earl Tegeler,

RECEIVED
Nov 19 2020 CASE NO.: 2020-CP-23-01213

Plaintiff,

vs.

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

Defendants.

SC Court of Appeals
**ORDER DENYING PLAINTIFF'S
MOTION TO RECONSIDER THE
DISMISSAL OF ALL CLAIMS AS TO
CHARLOTTE COLLIER**

On September 8, 2020 this Court entered an order granting the Defendant Charlotte Collier's Motion to Dismiss filed April 2, 2020. Subsequent to the hearing but prior to the entry of an Order in this case the Plaintiff prematurely filed a Motion for Reconsideration. The Plaintiff timely filed an amended motion on September 14, 2020 requesting reconsideration pursuant to SCRCP 59(e) and 60(b).

A motion filed under both Rule 59(e) and Rule 60(b) should be analyzed only under Rule 59(e) if it was filed no later than 10 days after entry of the adverse judgment and seeks to correct that judgment. Small v. Hunt, 98 F.3d 789, 797 (4th Cir. 1996); see also Vaughan v. Murray, No. 95-6081, 1995 U.S. App. LEXIS 31288, 1995 WL 649864, at *3 n.3 (4th Cir. Nov. 6, 1995) Robinson v. Wix Filtration Corp. LLC, 599 F.3d 403, 412, 2010 U.S. App. LEXIS 6298, *23, 15 Wage & Hour Cas. 2d (BNA) 1781. "The purpose of Rule 59(e), SCRCP, to alter or amend the judgment[,] is to request the trial judge to 'reconsider matters properly encompassed in a decision on the merits.'" Arnold v. State, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992) (quoting Budinich v. Becton Dickinson and Co., 486 U.S. 196, 200, 108 S. Ct. 1717, 100 L. Ed. 2d 178 (1988)). Collins Music Co. v. Igt, 353 S.C. 559, 562, 579 S.E.2d 524, 525 (Ct. App. 2002). Therefore, this Court will rule on this matter pursuant to SCRCP 59(e).

Defendant Charlotte Collier's motion to dismiss was filed and argued as a Motion for Judgment on the Pleadings and heard pursuant to SCRCP 12(c). While the Plaintiff filed multiple exhibits and affidavits in response to that motion, the Defendant did not go beyond the pleadings in her motion and argument. Therefore, the appropriate scope of review in this matter is pursuant to Rule 12 (c) and not Rule 56 as argued by the Plaintiff. "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.

Based on a review of the pleadings in this matter, the Court affirms its decision set forth in its Order dismissing this case filed September 8, 2020. While the Plaintiff has submitted affidavits and new information in support of his Motion for Reconsideration, that material was not before this Court on the day of the hearing. Even if the Plaintiff had timely filed this information, it would not be relevant to the review of a Rule 12(c) motion. Plaintiff does not raise any new or persuasive legal arguments as to the sufficiency of the Complaint.

However, as stated in this Court's previous order, the information filed by the Plaintiff does have bearing with regard to this Court's opinion as to whether the Complaint should be amended. Plaintiff has filed lengthy memoranda in support of his position without ever making any mention of how an amendment could cure a defect in the pleadings, or why that amendment would not be futile. Additionally Plaintiff has filed volumes of exhibits and affidavits with exhibits with numerous emails and texts as attachments since the filing of the Motion to Dismiss. Nothing in the volumes of

documents filed has would change or expound upon the allegations in the complaint as they pertain to Charlotte Collier. Even if this information --- most of which consists of irrelevant insults to the character of Ms. Collier and her daughter Hannah --- were true, Plaintiff's Complaint would still fail to state a claim. Plaintiff's Complaint accurately pleads the statement he contends to be defamatory. This statement fails to meet the legal standard for defamation.

Lastly, Plaintiff attempts to raise a new claim in his post hearing motions. He alleges in the course of the August 18, 2020 hearing on these motions, counsel for Charlotte Collier referred to him in her argument before the Court as a predator. I have reviewed the record in this case find this argument to be wholly without merit. Ms. Collier's counsel did not call the Plaintiff a predator and all arguments made by counsel were appropriately within the context of the matters before the Court.

IT IS THEREFORE ORDERED AND ADJUDGED BY THIS HONORABLE COURT that the Plaintiff's Motion for Reconsideration and Amended Motion for Reconsideration be denied.

IT IS SO ORDERED.

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

November _____, 2020
Greenville, South Carolina



Greenville Common Pleas

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

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Type: Order/Other

So Ordered

s/Alex Kinlaw, Jr., #2763