

Summary Judgment Review

Case Name: Schulman v. Sapp

Nature of the Order: Order Granting Defendant's Motion for Summary Judgment

District Judge: Timothy C. Batten, Jr.

Claims & Outcomes:

1. Claim: Section 1981
 - **Outcome:** Summary Judgment Granted
2. Claim: Section 1985(3)
 - **Outcome:** Summary Judgment Granted
3. Claim: Tortious Interference with Contract
 - **Outcome:** Dismissed without prejudice

Whether R&R Followed: N/A

For Race Discrimination Cases:

Race of Plaintiff: Caucasian

Long Summary:

Traffic Troopers, owned by Sapp, is a flagging and traffic directing company that hires Fulton County deputy sheriffs. Schulman was a reserve lieutenant with the Fulton County Sheriff's Office ("FCSO") who also owned a security company, Georgia Security Management. While working as a reserve lieutenant, he sought and obtained a second job with Traffic Troopers. This second job entailed directing traffic during roadwork or other construction.

On September 7, 2016, the Fulton County Sheriff's Office's Office of Professional Standards ("OPS") received an anonymous complaint about a deputy poorly directing traffic.

After receiving the complaint, Brown, a captain, directed Sergeant Sarah Gregory to open an investigation. Subsequently, Brown discovered that Schulman worked for Traffic Troopers and questioned Schulman about his duties there. Schulman responded that he was performing security and flagger work for Traffic Troopers. He also denied representing the Fulton County Sheriff's Office by wearing its uniform during his flagging work. The investigation concluded that Schulman was not wearing the uniform while working at Traffic Troopers, and the Office closed the case.

Meanwhile, Sapp called "a commander on duty" and inquired whether Schulman was a deputy. The commander said he was not. Sapp e-mailed Brown because she had believed (because he provided his POST certification and a copy of his FCSO identification) that Schulman was a non-reserve Fulton County sheriff's deputy.

After receiving Sapp's e-mail, Brown instructed Sergeant Gregory to re-open the prior investigation. Schulman repeated that he was hired for traffic control. OPS subsequently concluded

that Schulman violated the OPS Procedures because he held himself out to be a law enforcement officer by providing his POST certification and FCSO identification to Sapp. OPS terminated Schulman's reserve deputy status. This termination led to Schulman filing this lawsuit. After filing suit, many FCSO officers told Schulman that they could not work for Schulman's company, Georgia Security Management. The sheriff's office has a policy that forbids any officer from working for a company that is owned or managed by persons involved in a pending lawsuit with the county.

Plaintiff brought a Section 1981 claim but failed to bring the claim appropriately via Section 1983. Because Defendant's preemptively argued that the Court should reject the claim if it were to view it as properly brought via Section 1983, the Court "narrowly" held that "if a defendant responds to an unpled but possible § 1983 claim, the Court can consider the claim." The Court went on to grant summary judgment on Plaintiff's sua sponte Section 1983/Section 1981 claim because the Plaintiff could not show pretext. The Court stated that Plaintiff could not "point to any specified instances of racial discrimination outside of his general allegations and does not dispute that his personnel file does not contain complaints by him alleging racial discrimination."

The Court further concluded that Plaintiff's conspiracy claim failed because Plaintiff cannot show that at least one of Fulton County Defendants conspired with Sapp as the only record evidence was one email from Sapp. The Court also stated that Plaintiff did not introduce any disputed material facts to show that he was harmed by Defendants.

With respect to Plaintiff's remaining state law claims, the Court dismissed these without prejudice because it declined to exercise supplemental jurisdiction.