

IN THE COURT OF APPEALS OF IOWA

No. 9-769 / 09-0560
Filed February 24, 2010

DAVID POMEROY,
Plaintiff-Appellant,

vs.

**TURKLE-CLARK ENVIRONMENTAL
CONSULTING, L.C., and CINDY TURKLE,**
Defendants-Appellees.

Appeal from the Iowa District Court for Hardin County, Dale E. Ruigh,
Judge.

Plaintiff appeals the district court's grant of summary judgment to
defendants on his claims of wrongful termination, defamation, intentional infliction
of emotional distress, and improper interference with an employment contract.

AFFIRMED.

Theodore F. Sporer and Megan Lorentzen of Sporer & Flanagan, P.C.,
Des Moines, for appellant.

Michael R. Reck, Christopher McDonald, and David W. Nelmark of Belin
McCormick, Des Moines, for appellees.

Heard by Vogel, P.J., Eisenhauer, J., and Mahan, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

MAHAN, S.J.**I. Background Facts & Proceedings**

Turkle-Clark Environmental Consulting, L.C. (TEC), had a contract with the Rural Iowa Waste Management Association (RIWMA) to provide landfill management services. RIWMA is a joint exercise of Butler, Hardin, Hamilton, and Wright counties, organized under Iowa Code chapter 28E (2007). TEC is the company of Cindy Turkle and Daniel Clark, wife and husband. Turkle recommended that RIWMA should hire David Pomeroy as the operations supervisor for RIWMA. Pomeroy was hired, and he and the chairperson of the RIWMA signed a "letter of agreement" outlining the terms of his employment on June 20, 2005.

Pomeroy was hired under the theory that eventually he would take over running the landfill, and TEC would be phased out. Although Pomeroy was hired by RIWMA, he was supervised by Turkle. Pomeroy received a favorable job evaluation from Turkle on October 10, 2005.

Disagreements arose, however, between Pomeroy and Turkle. Pomeroy complained about TEC's billing practices to board members of RIWMA. He also complained about "dirty politics." Pomeroy suspected a RIWMA telephone had been used by employees of the nearby Hardin County Recycling Center to make personal long-distance calls. He had the telephone line disconnected, and was reprimanded by Turkle. In December 2005 Turkle wrote up an unfavorable evaluation for Pomeroy and placed him on probation. Pomeroy claims he never received this evaluation.

In February 2006, Pomeroy and other RIWMA employees met with RIWMA board members in Parkersburg to discuss issues involving Turkle and other matters. Pomeroy asked that Turkle not be told about the meeting. Turkle found out, however, and asked him about the meeting. Turkle gave Pomeroy a third evaluation on February 20, 2006. This evaluation contained a long list of work deficiencies. The matter was discussed at a March 22, 2006, board meeting of RIWMA. After the meeting, Pomeroy gave a reporter a copy of the February 20, 2006 evaluation and his written response.

Pomeroy was discharged from his employment with RIWMA in April 2006. He filed suit against TEC, Turkle, and others on theories of: (1) wrongful termination in violation of the Iowa Whistleblower Statute; (2) defamation; (3) improper interference with an employment contract; and (4) intentional infliction of emotional distress.¹ Pomeroy alleged Turkle intentionally sought to have him fired so that TEC could retain its contract to supervise the landfill. He also alleged she retaliated against him because he questioned the billing practices of TEC.

The defendants filed a motion for summary judgment. The district court granted the motion for summary judgment. The court found there was no evidence Turkle acted in retaliation. The court determined there was insufficient basis in the record to support Pomeroy's other claims. Pomeroy appeals the district court's grant of summary judgment.

¹ Pomeroy's suit originally named RIWMA, Daniel Clark, Butler County, Hardin County, Hamilton County, Wright County, and RIWMA board members as defendants. These parties are no longer involved in the suit.

II. Standard of Review

We review the district court's ruling on a motion for summary judgment for the correction of errors at law. See Iowa R. App. P. 6.907 (2009). Summary judgment is appropriate only when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. Iowa R. Civ. P. 1.981(3); *Kistler v. City of Perry*, 719 N.W.2d 804, 805 (Iowa 2006). A court should view the record in the light most favorable to the non-moving party. *Kern v. Palmer Coll. of Chiropractic*, 757 N.W.2d 651, 657 (Iowa 2008). In determining whether there is a genuine issue of material fact, the court affords the non-moving party every legitimate inference the record will bear. *Id.*

III. Merits

After reviewing the record and arguments on appeal, we agree with the district court's findings and conclusions. Specifically, we agree with the district court that Pomeroy failed to provide any evidence to support his claims. The findings of the district court were accurate, its reasoning sound, and the application of the law correct. Any further discussion of the issues by this court would add little to the disposition of this case. Accordingly, we affirm the district court's grant of summary judgment.

AFFIRMED.