

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CURTIS LARRICK,

Plaintiff,

v.

THE SHERIFF OF BEAVER COUNTY,
PENNSYLVANIA, BEAVER COUNTY,
PENNSYLVANIA and ANTHONY GUY,
Sheriff of Beaver County in his individual
capacity,

Defendants.

Civil Action No. 2:16-cv-282-CRE

MAGISTRATE JUDGE CYNTHIA REED EDDY

JURY TRIAL DEMANDED

DEFENDANT'S BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

I. SUMMARY OF CASE

Plaintiff, Curtis Larrick, was a Deputy Sheriff in Beaver County, who was terminated from his employment by Anthony Guy, the newly-elected Sheriff. Plaintiff brings a claim of political discrimination against Sheriff Guy, in his capacity as an individual as well as in his official capacity as Sheriff, along with Beaver County, arguing that he was fired due to his support of Sheriff Guy's political opponent during the election.

Plaintiff was terminated following an evaluation process of all employees in the Sheriff's Office. Sheriff Guy had the authority to make such employment determinations. This assessment was done by Sheriff Guy after a storied history of favoritism and corruption by the former sheriff. Therefore, Sheriff Guy wanted to ensure he was supported by a competent, hard working and trustworthy force upon taking office.

The assessment by Sheriff Guy included meetings with each of the law enforcement staff and discussions with senior personnel during the period after he was elected and before he took office. During the evaluation, questions about the trustworthiness of Plaintiff and his competence as an employee were repeatedly brought to light by others within the Sheriff's Office. Indeed, these problems regarding Plaintiff's trustworthiness and performance began well before Sheriff Guy's successful campaign, as Plaintiff earned the nickname "Lying Larrick," engaged in personal disputes with his co-workers and maintained a high-drama lifestyle outside of the office which he brought into the workplace. Based on this overall assessment of the workforce, Plaintiff, along with other deputies, both Republican and Democrat, were terminated. Politics was not a factor in Sheriff Guy's decision regarding Plaintiff.

II. QUESTIONS PRESENTED

- I. SHOULD JUDGMENT BE ENTERED ON PLAINTIFF'S POLITICAL DISCRIMINATION CLAIM BECAUSE NO CAUSATION EXISTED BETWEEN PLAINTIFF'S POLITICAL AFFILIATION AND HIS TERMINATION?

Suggested answer: Yes

- II. SHOULD JUDGMENT BE ENTERED ON PLAINTIFF'S POLITICAL DISCRIMINATION CLAIM BECAUSE THE EVIDENCE DEMONSTRATES THAT SHERIFF GUY TERMINATED PLAINTIFF FOR NON-DISCRIMINATORY REASONS?

Suggested answer: Yes

III. STANDARD OF REVIEW

Summary Judgment is appropriate if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). If the non-moving party has the burden of persuasion at

trial, the party moving for Summary Judgment may meet its burden by showing that the evidentiary materials of record, if reduced to admissible evidence, would be insufficient to carry the non-moving party's burden of proof at trial. *Celotex Corporation v. Catrett*, 477 U.S. 317, 322 (1986). Once the moving party has demonstrated to the court that there is an absence of evidence to support the non-moving party's case, the non-moving party "must do more than simply show that there is some metaphysical doubt as to the material facts." *Matushita Electric Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586, (1986). Summary Judgment is proper unless the record contains sufficient evidence favoring the non-moving party to enable a reasonable jury to return a verdict for that party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-250 (1986) ("If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted.").

IV. ARGUMENT

A. Summary of position

Plaintiff brings a claim of political affiliation discrimination against Sheriff Guy and Beaver County. A *prima facie* case of political discrimination requires the plaintiff to show that: (1) the plaintiff was employed at a public agency in a position that does not require political affiliation; (2) the plaintiff was engaged in constitutionally protected conduct; and (3) this conduct was a substantial or motivating factor in the government's employment decision. *Galli v. New Jersey Meadowlands Commission*, 490 F.3d 265, 271 (3d. Cir. 2007) (citing *Stephens v. Kerrigan*, 122 F.3d 171, 176 (3d Cir.1997)).

The Third Circuit has found that an employee maintaining an affiliation with a political party is a protected activity. *Goodman v. Pa. Turnpike Comm'n*, 293 F.3d 655, 663–64 (3d

Cir.2002). This can also include active support for a losing candidate. *Robertson v. Fiore*, 62 F.3d 596, 600–01 (3d Cir. 1995). Failure to actively support a winning candidate is conduct protected by the First Amendment as well. *Bennis v. Gable*, 823 F.2d 723, 731 (3d Cir.1987). To establish that the political affiliation was a motivating factor in an employment decision, the plaintiff must produce both proof of knowledge of the decision-maker and evidence of causation. *Galli*, 490 F.3d at 275.

Once this *prima facie* showing is made, the employer may “avoid a finding of liability by proving by a preponderance of the evidence that the same employment action would have been taken even in the absence of the protected activity.” *Galli*, 490 F.3d at 271 (citing *Stephens*, 122 F.3d at 176).

Plaintiff’s claim must fail as he cannot set forth a *prima facie* case. While there is no dispute that the position of Deputy Sheriff is not a political position, as required for the first prong of a *prima facie* case, that Plaintiff supported Republican Sheriff Guy’s Democratic opponent Wayne Kress, and that Sheriff Guy knew about Plaintiff’s political affiliation, it cannot be found that Plaintiff’s political affiliation was a motivating factor in the decision to terminate him. Indeed, Plaintiff is unable to demonstrate causation between his protected activity and his termination given that problems with Plaintiff’s job performance and professional behavior began long before Sheriff Guy took office. Plaintiff himself worried about job security for reasons other than political affiliation before Republican Sheriff Guy took office, while working under the former sheriff, Democrat George David. Further, the evidence provides that a group of employees were terminated at the same time for non-political reasons – Sheriff Guy

terminated deputies who were his supporters and retained many staff members who were clear supporters of his opponent.

Further, the record demonstrates that Sheriff Guy based his decision to terminate Plaintiff on non-political issues. When Sheriff Guy won the election, the former sheriff he was replacing was embroiled in a number of negative issues, including criminal charges against him directly and public outcry relating to how he ran the Sheriff's Office and the behavior of those sheriff deputies he employed. Therefore, Sheriff Guy conducted assessments of all law enforcement within the office to ensure he took office with a competent staff. The assessments revealed that Plaintiff was known to have issues with being truthful. Plaintiff was found by others to be a high maintenance employee who brought his personal issues into work with him. Importantly, Plaintiff does not deny that he experienced personal issues which he readily sought out to share with co-workers and supervisors, taking up management's time in dealing with non-work related matters. Ultimately, Plaintiff was terminated by the power statutorily afforded to Sheriff Guy by the County.

B. No causation exists to demonstrate that Plaintiff's termination was due to his political affiliation.

The third element of a political affiliation discrimination claim, which is the focus of this analysis, requires Plaintiff to demonstrate that his political affiliation was a motivating factor in an employment decision. *Galli*, 490 F.3d at 275. This requires the plaintiff to show both knowledge of the political affiliation by the decision maker and evidence of causation. *Id.* While evidence exists to demonstrate Sheriff Guy was aware that Plaintiff supported his opponent in the election for Sheriff, Plaintiff cannot demonstrate causation, as the evidence is clear that political affiliation played no role in employment determinations.

There is no evidence to demonstrate that Plaintiff was terminated by Republican Sheriff Guy as a result of his political affiliation with Democrat Wayne Kress. Ex. A (Guy Depo. at p. 146). At this stage, Plaintiff must be able to produce evidence that the employer acted based on political discrimination. Unsupported allegations that he was terminated because he supported the opposing party are not enough. *Contini v. Cranmer*, 117 Fed. App'x 186, 190 (3d Cir. 2004). Instead, the evidence of record demonstrates that Plaintiff's termination, done in conjunction with an evaluation of all deputies and at the same time others were terminated, could not have been politically motivated.

Here, we have a situation in which a new Sheriff was elected following a troubling time for the office in which the former Sheriff was arrested and tried for events that occurred in his official capacity. Ex. A (Guy Depo. at p. 12); Ex. G (Darbut Depo. at pp. 43-44).¹ Both Sheriff Guy and the Democrat running for the position agreed that the office and its staff needed an overhaul in light of scandal that occurred under the former Sheriff. Ex. B (Plaintiff Depo. at pp. 52-53). Such type of restructuring and reorganization is not alone indicative of political discrimination; indeed, new employers often reorganize and restructure their operations to be more efficient and such does not give rise to a claim of discrimination. *Walters v. County of Schuylkill*, 129 F. Supp. 2d 726, 734-35 (M.D. Pa. 2011).

Upon taking office, Sheriff Guy terminated a number of persons, including Lieutenant Thomas Ochs, Lieutenant John J. Fratangeli, Deputy Paul Clark, Plaintiff, Deputy Tanya Kuhlber, Deputy Kayla D. Stevenson and Sergeant Michael Tibolet, in an attempt to restore the integrity of the scandal-stricken office. Ex. R (Termination Letter). He also demoted Chief Deputy Jay

¹ See Commonwealth v. George David, Docket Sheet, CP-04-CR-0000794-2013.

Alstadt to the position of Captain and revoked the commission of Captain James McGeehan, demoting him to the position of Lieutenant. Ex. R (Termination Letter).

Crucial to demonstrating that the employment decisions made were not motivated by political allegiance is that the political affiliation of those adversely affected was all over the board. Fratangeli was a vocal supporter of Sheriff Guy but, nonetheless, was terminated. Ex. A (Guy Depo. at pp. 19, 97-98). Despite Fratangeli's support of Sheriff Guy, he experienced the same adverse employment action. Both Fratangeli and Plaintiff had difficulties with the truth and honesty. Ex. A (Guy Depo. at pp. 97-98, 131-136). Similarly, both Alstadt and McGeehan made their support of Sheriff Guy in the general election known and, nevertheless, experienced adverse employment actions under Sheriff Guy in that they were demoted. Ex. A (Guy Depo. at pp. 19, 52); Ex. R (Termination Letter).

Further, Sheriff Guy had no knowledge as to who Stevenson, Kuhlber, Tibolet or Ochs supported in the election, yet they were terminated. Ex. A (Guy Depo. at 41, 50-51); Ex. R (Termination Letter). Indeed, they were terminated for the same general reasons as Plaintiff. Plaintiff was terminated on the basis of character issues, lack of honesty and because personal issues affecting his professional life caused him not to be viewed as a team player and to be a high maintenance employee. Ex. A (Guy Depo. at pp. 131-136). Kuhlber was also terminated due to her personal relationships and the drama it caused at work. Ex. A (Guy Depo. at pp. 100-02). Ochs and Tibolet were terminated on the basis that Sheriff Guy learned that they had been untruthful. Ex. A (Guy Depo. at pp. 98-99). Stevenson was terminated because she exhibited some character issues as well. Ex. A (Guy Depo. at pp. 99-100).

It also bears noting that many employees were retained when Sheriff Guy took office. Though Sheriff Guy was not aware of the political affiliation of most people in the office, it was believed that, due to the predominance of Democrats in Beaver County, most employees of the Sheriff's Office were Democrats and supportive of Wayne Kress by nature of their affiliation. Ex. C (Alstadt Depo. at p. 46). Despite their support of Sheriff Guy's opponent, most of the staff was retained. *See Foglesong v. Somerset County*, 2014 WL 4796754, at *7 (W.D. Pa. Sept. 26, 2014) (finding no political discrimination when employer retained those who supported her opponent). Deputy Sheriff Jen Bredemeir supported Kress in the election for Sheriff and Sheriff Guy knew that she was active in the Democratic party. Ex. A (Guy Depo. at pp. 35, 37-38, 107). Yet, Sheriff Guy promoted Jen Bredemeir from a part time deputy sheriff to a full time deputy sheriff. Ex. A (Guy Depo. at pp. 35, 37-38, 107). Additionally, Deputy Sheriff Dave Mangerie supported Paul Kress in the general election, which Sheriff Guy knew and nevertheless, promoted him from part time deputy sheriff to a full time deputy sheriff. Ex. A (Guy Depo. at pp. 35, 37-38). There is no evidence that Plaintiff's political affiliation played any role in Plaintiff's termination or in Sheriff Guy's employment decisions when taking office.

Finally, it is anticipated that Plaintiff will attempt to demonstrate causation through temporal proximity in that he was terminated immediately upon Sheriff Guy taking office. Any attempt to demonstrate temporal proximity is disingenuous as Plaintiff experienced long-standing problems at his job that caused him to question his own job security and to experience adverse employment actions under Democrat former Sheriff David long before Republican Sheriff Guy was elected in 2015 or took office in 2016. Indeed, as far back as 2012, Plaintiff was demoted due to his personal life affecting his job performance. Ex. B (Plaintiff Depo. at p.22-

23); Ex. C (Alstadt Depo. at pp. 12-13). Even after he was demoted, the same problems continued with Plaintiff. Ex. C (Alstadt Depo. at p. 19). In 2014, Plaintiff himself believed he was going to be fired. Ex. B (Plaintiff Depo. at p. 26). Plaintiff had issues long before Sheriff Guy was in office or began running for office. No causation exists when there were complaints of previous job problems, a restructuring/reorganization occurred, and the Plaintiff was terminated. *See Wallett v. Pennsylvania Turnpike Commission*, 2012 WL 3579575, at *7 (M.D. Pa. Aug. 17, 2012). Plaintiff's job performance and, therefore, his job security, was suffering before Sheriff Guy, and when a new administration was in the picture, his lack of job security cannot be attributed to the election of Sheriff Guy.

For the reasons stated above, Plaintiff's political affiliation was not a motivating factor in his termination. Therefore, Plaintiff fails to set forth a prima facie case, and as such, summary judgment should be entered for Sheriff Guy and Beaver County.

C. Plaintiff was terminated for non-discriminatory reasons.

Even though Plaintiff failed to set forth a prima facie case of discrimination, if Plaintiff was able to do so, the burden shifts to Sheriff Guy and the County to demonstrate that they would have terminated Plaintiff absent any political affiliation. *Galli*, 490 F.3d at 271. The record is clear that Plaintiff would have been terminated absent his political support of Sheriff Guy's opponent.

As an initial matter, it is important to note that Sheriff Guy is vested with the absolute power to make employment determinations for the Sheriff's Office. County Code Section 1620 explicitly provides the sheriff the power to hire, discharge, fire, maintain and supervise any and

all employees of the Beaver County Sheriff's Office. Sheriff Guy was within his rights to make the decision to terminate Plaintiff.

Further, the record is clear that Plaintiff was terminated because of his own job performance and professional behavior and on the impact of his personal life issues, which adversely affected him after an impartial review process of all personnel of the Sheriff's Office. *See McKeever v. Township of Washington*, 2011 WL 53178, at *7 (D.N.J. Jan. 7, 2011) (citing Third Circuit law and finding review process used is evidence that employment decision was not based upon improper basis).

Upon winning the election, Sheriff Guy underwent an evaluation of all members of the Sheriff's Office. Ex. A (Guy Depo. at pp. 107-08). He believed such evaluation was necessary because of the turmoil and a lack of leadership in the office due to the former-Sheriff's criminal issues. Ex. A (Guy Depo. at pp. 65-66, 107-08). In light of the previous issues in the Sheriff's Office, Sheriff Guy thought it was important to ensure that the deputies he kept possessed "strong character, good charter, and positive character. . . ," including "honesty, trustworthiness, [and] reliability." Ex. A (Guy Depo. at pp. 107-08).

The evaluation process included speaking with two State Police Officers and a lawyer at the Attorney General's Office who were involved in the investigation, arrest and prosecution of Sheriff David, meeting with former Chief Deputy Sheriff Jay Alstadt to evaluate personnel and structural problems in the office and interviewing all personnel of the Sheriff's Office. Ex. A (Guy Depo. at pp. 60, 83-84). Sheriff Guy asked Dean Michael, a former police professional, to sit in on the interviews of the Sheriff's Office personnel due to his experience. Ex. A (Guy Depo. at p. 84). Dean Michael and Sheriff Guy came up with a list of questions to ask each employee and

that consistent format was followed throughout each interview. Ex. A (Guy Depo. at pp .84, 95); Ex. O (Michael Depo. at pp. 17-18, 37-38). The interview involved asking about problems that needed fixed within the office as a whole and problems with individual employees. Ex. A (Guy Depo. at pp .84, 95); Ex. O (Michael Depo. at pp. 17-18, 37-38).

In making employment decisions, Sheriff Guy weighed all of the information before him and discussed personnel with Alstadt and Michael. Ex. A (Guy Depo. at p. 127). Sheriff Guy terminated Larrick because of Larrick's "character issues," which included honesty, integrity, trustworthiness, ability to work well as a member of the team and instances of inappropriate conduct with females, which he learned from the interviews he conducted. Ex. A (Guy Depo. at pp. 131-136). Sheriff Guy also terminated Larrick because it seemed "that he always had something going on, whether it was this deputy said something about him or another deputy said something or there is some kind of conflict that frankly should have be dealt with at a much lower level than the Chief Deputy [Alstadt]." Ex. A (Guy Depo. at p. 136). Sheriff Guy thought such behavior is disruptive. Ex. A (Guy Depo. at p. 136). Sheriff Guy also based his decision to terminate Larrick on the interactions he had with Larrick to the extent that he relayed unverified stories and exaggerated situations. Ex. A (Guy Depo. at pp. 131-136). Sheriff Guy believed that these were qualities that did not fit with his vision of the office. Ex. A (Guy Depo. at pp. 131-136).

Sheriff Guy's basis for terminating Larrick is supported by the record. Larrick's own testimony supports that Larrick had a high maintenance personality, which resulted in conflicts and constant drama, and that he addressed many personal issues at work. In 2011, Deputy Michael Hurst was texting Larrick's then-wife, and Larrick saw the texts and brought this issue

to the attention of Alstadt. Ex. B (Plaintiff Depo. at pp. 61-62). Larrick confronted Hurst and made threats against him, requiring Larrick to enroll in an Employee Assistance Program. Ex. B (Plaintiff Depo. at pp. 69-70). Following Larrick's divorce and separation, Larrick's ex-wife's new husband sent the Sheriff's Office a letter detailing harassment by Larrick. Ex. B (Plaintiff's Depo. at pp. 89-98); Ex. E (Letter Dated 9/11/11). Larrick's ex-wife and her new husband filed a PFA against Larrick, which Larrick was made aware of by Chief Alstadt and Sheriff David. Ex. B (Plaintiff Depo. at pp. 88, 99).

When Larrick's divorce was finalized, he failed to remove his ex-wife from his health insurance and benefits, which required involvement of the County to resolve the issue. Ex. B (Plaintiff Depo. at pp. 118-23); Ex. F (Insurance Documents). Larrick believed that Deputy Kristen Chapes was sharing information about him with his ex-wife and that Sergeant McGeehan was attempting to contact his wife over Facebook. Ex. B, (Plaintiff Depo. at pp. 77, 79). Larrick told Alstadt about these issues with Chapes and McGeehan. Ex. C (Alstadt Depo. at pp. 13-18). When Plaintiff's ex-wife got remarried, somebody put the wedding announcement in Larrick's work mailbox and Larrick approached Alstadt to handle the issue. Ex. B (Plaintiff Depo. at pp. 73-75).

Plaintiff testified about a Human Resources investigation and an investigation by Alstadt about a sexual harassment complaint made by another deputy. Ex. B (Plaintiff Depo. at p. 123) Alstadt had to approach Plaintiff about bothering a Judge's female law clerk. Ex. B (Plaintiff Depo. at p. 127); Ex. C (Alstadt Depo. at pp. 23-25). Also, Larrick was texting with Deputy David Hunter's girlfriend, which upset Hunter. Ex. B (Plaintiff Depo. at p. 112). Plaintiff was involved in a police incident in Ocean City Maryland while vacationing with another deputy and his

family. Ex. B (Plaintiff Depo. at pp. 105-108); Ex. K (OCMD Police Report); Ex. G (Darbut Depo. at p. 31). Alstadt was aware of all of these issues. Ex. B (Plaintiff Depo. at 117-118). Larrick went to Alstadt with all of his issues, both personal and work related. Ex. B (Plaintiff Depo. 66-67, 117-118); Ex. C (Alstadt Depo. at pp. 14, 16, 18-19, 25-26, 31); Ex. J (Complaint Report).

During his first meeting with Alstadt, Alstadt provided to Sheriff Guy that that Larrick “needs to be gone,” because he would not be part of the vision for the office. Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at p. 52). In support of his opinion about Larrick, Alstadt relayed to Sheriff Guy that Larrick always had issues; he was high maintenance and ate up a lot of management’s time. Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at p. 52-53, 56); Ex. N (Guy Notes from Deputies). He had an attitude toward others that was very disruptive and something that Alstadt had to deal with every single day. Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at p. 52-53, 56). Further, Alstadt relayed to Sheriff Guy that Larrick had problems with truthfulness and that the other deputies do not believe him, evidenced by the fact that Larrick was referred to by other deputies as “Lying Larrick.” Ex. A (Guy Depo. at p. 84); Ex. C (Alstadt Depo. at p. 52-53, 56); Ex. N (Guy Notes from Deputies) Larrick always portrayed incidents to be much more minor to minimize his involvement. Ex. A (Guy Depo. at p. 84) Ex. C (Alstadt Depo. at p. 52-53, 56); Ex. N (Guy Notes from Deputies) Alstadt also relayed to Sheriff Guy that there was a complaint of harassment against Larrick by a Judge’s Secretary and that Larrick had been contacting another deputy’s girlfriend. Ex. A (Guy Depo. at p. 84). Indeed, Larrick himself does not deny that these incidents occurred or that he consistently went to Alstadt to handle his issues with his life both inside and outside of the office. (CSMF at ¶¶ 10-16, 18-23, 25-26); *see Stuby v. Bedford County*, 2013 WL 5724065, at * 7 (W.D.Pa. Oct. 21,

2013). Even if Larrick disputes his conduct was not improper, the agreed constant involvement Alstadt had with Larrick supports Alstadt's statements to Sheriff Guy that Larrick was high maintenance and disruptive to the ranks.

Further, information learned during the interviews of personnel support Sheriff Guy's basis for terminating Plaintiff. During the interviews, others, including Hunter, Mike Kress, Jim McGeehan, Kristen Chapes, Fratangeli and Jim Brown, brought up Larrick's sexual harassment allegations. Ex. A (Guy Depo. at p. 95). Most of the Deputies said that Larrick was a liar, his nickname was Lying Larrick and he could not be trusted. Ex. A (Guy Depo. at pp. 113,120); Ex. O (Michael Depo. at pp. 16-20). Some deputies reported during the interviews that Larrick said he was attending multiple funerals and lied about attending. Others indicated that Larrick claimed to have a relationship with a news reporter, but the news reporter denied knowing Larrick. Sheriff Guy was told that Larrick stated that he told the truth one time and he ended up getting in trouble for it, when he was disciplined for his involvement in an automobile crash. Ex. A (Guy Depo. at pp. 85, 113,118- 120); Ex. O (Michael Depo. at pp. 19). They indicated that Larrick would spin events differently than what really happened. Sheriff Guy found the lack of trust for Larrick to be "nearly universal" to those in the Sheriff's Office. Ex. A (Guy Depo. at pp. 133-34). This would not lend itself to a positive work environment. Ex. A (Guy Depo. at pp. 133).

Sheriff Guy's own interactions with Plaintiff supported his reasons for terminating Larrick and confirmed the information he learned during his meeting with Alstadt and the other personnel. Indeed, when Plaintiff approached Sheriff Guy at the poll and told a story about being mistaken for Sheriff Guy, Sheriff Guy found this story unbelievable. Ex. A (Guy Depo. 44-48); Ex. B (Plaintiff Depo. at 137-42). Further, Sheriff Guy believed that Plaintiff had no problem

spreading false information about him. Ex. A (Guy Depo. at pp. 28, 46-47). During Larrick's interview, Dean Michael asked Larrick about what others had said regarding his inability to tell the truth. Larrick denied having such an issue, but could not provide specifics to rebut allegations of being known as a liar. Ex. A (Guy Depo. at pp. 133-34); Ex. O (Michael Depo. at pp. 16).

While Larrick will argue the events at the polling place are critical to the political motivation analysis, those events should be viewed as functioning to showcase Larrick's true character. His support of Sheriff Guy's opponent as the backdrop was no different than the support of Sheriff Guy's opponent by others who were retained or promoted by Sheriff Guy. This red herring should not be used to find a fact dispute when the full record shows non-discriminatory reasons for Sheriff Guy's decision.

This court has found that similar circumstances do not give rise to a political discrimination claim and provide a non-discriminatory, good faith basis for termination to allow for summary judgment in favor of the employer. In *Foglesong v. Somerset County*, 2014 WL 4796754, at *6-7 (W.D. Pa. Sept. 26, 2014), a newly-elected District Attorney inherited staff hired by the previous District Attorney. She decided to terminate certain employees, including the plaintiff, who supported her opponent in the election. *Id.* The District Attorney believed that the work performance and ethic of the plaintiff did not match hers and she based this belief upon learning that others who had worked with the plaintiff previously felt the same way. *Id.* With such knowledge and belief by the District Attorney, the Court found that the plaintiff would have been terminated from his job regardless of who he supported politically. *Id.* Indeed, the Court further noted that the District Attorney chose to retain two employees who

were non-supporters of her, based upon learning of their work experience, rather than political affiliation. *Id.*

Similarly, the newly-elected Sheriff Guy formed an opinion that Plaintiff had trouble with honesty and was high maintenance in his relationships in the office. Sheriff Guy based his beliefs, at least in part, on others who indicated they were bothered by the same issues regarding Plaintiff. As such, regardless of who Plaintiff supported in the election, Plaintiff would have been terminated. In further support of that position, it bears noting that Sheriff Guy retained personnel who were not supporters of his based on his belief that they maintained good character. *See supra*, Section A.

The evidence is clear that Plaintiff was terminated due to his character issues and high maintenance demeanor and the record supports such basis. Therefore, Plaintiff was terminated for nondiscriminatory reasons, and summary judgment should be entered for Sheriff Guy and Beaver County.

VI. CONCLUSION

For the reasons set forth above, Plaintiff's political affiliation was not a motivating factor in Sheriff Guy's decision to terminate Plaintiff. Rather, the evidence is clear that Sheriff Guy would have terminated Plaintiff absent any support of his opponent. Therefore, summary judgment should be entered for Sheriff Guy and Beaver County.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been forwarded to all counsel of record by:

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