

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

Electronically Filed

JURY TRIAL DEMANDED

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

AND NOW, come Defendants, THE SHERIFF OF BEAVER COUNTY, PENNSYLVANIA, BEAVER COUNTY, PENNSYLVANIA and ANTHONY GUY, Sheriff of Beaver County in his individual capacity, by and through their undersigned counsel, JonesPassodelis, PLLC, and files the within Motion for Summary Judgment as follows:

1. 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.

2. The relevant facts are set forth in the separately-filed Concise Statement of Undisputed Material Facts and Appendix, which are incorporated herein by reference.

3. Defendants are entitled to Summary Judgment. 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)). 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).

4. There is no dispute that the position of Deputy Sheriff held by Larrick is not a political position, 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 Plaintiff's termination. Indeed, Plaintiff cannot demonstrate causation between his protected activity and his termination.

5. First, there is no evidence that Plaintiff's political affiliation was a motivating factor in his termination.

6. Instead, Plaintiff's termination took place upon a restructuring of the Sheriff's Office that occurred when Sherriff Guy took office following a tumultuous time in the Office in which the former Sheriff was arrested and charged criminally. Such reorganization does not give rise to political discrimination. *Walters v. County of Schuylkill*, 129 F. Supp. 2d 726, 734-35 (M.D. Pa. 2011).

7. Upon taking office, Sheriff Guy terminated and demoted other personnel. Some of those demoted and terminated were political supporters of his, demonstrating that political affiliation played no role in Sheriff Guy's employment decisions. *Foglesong v. Somerset County*, 2014 WL 4796754 at *7 (W.D. Pa. Sept. 26, 2014).

8. Further, Summary Judgment is appropriate because Sheriff Guy based his decision to terminate Plaintiff on non-political reasons.

9. As an initial matter, the Sheriff has complete authority to hire, fire and make employment decisions and personnel determinations for the Sheriff's Office.

10. Plaintiff was terminated after an evaluation process of all employees in the Sheriff's Office following a storied history of favoritism and corruption by the former sheriff. This assessment by Sheriff Guy after he was elected and before he took office included meetings with each of the law enforcement staff and discussions with existing senior personnel.

11. It was determined that others believed Plaintiff had an issue with telling the truth and he was a high maintenance employee to manage, which Sheriff Guy felt were not in line with his vision of the office. *See Foglesong*, 2014 WL 479675 at *6-7.

12. The record supports the basis for Plaintiff's termination. Sheriff Guy was told by numerous employees that Plaintiff earned the nickname "Lying Larrick", and they cited examples of his lack of honesty in the workplace.

13. Further, Sheriff Guy learned from Sheriff's Office management that Plaintiff engaged in personal disputes with his co-workers and maintained a high-drama lifestyle outside of the office which he brought into the workplace. Indeed, Plaintiff does not deny his personal issues or that he brought all of them to the attention of the then Chief Deputy at the time.

14. Sheriff Guy's process to review all personnel, coupled with his decisions in which persons of the opposite political party and who supported Guy's opponent were retained and promoted, belies any political motive in the employment decisions made.

15. Based on the record, judgment for the Defendants is warranted.

WHEREFORE, Defendants, THE SHERIFF OF BEAVER COUNTY, PENNSYLVANIA, BEAVER COUNTY, PENNSYLVANIA and ANTHONY GUY, Sheriff of Beaver County in his individual capacity, request that this Honorable Court grant their Motion for Summary Judgment.

Respectfully submitted,

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GUY, *Sheriff of Beaver County in his individual*

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:

- U.S. First Class Mail, Postage Paid
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Facsimile Transmittal
- UPS Delivery
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Date: June 9, 2017

s/Marie Milie Jones
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