

IN THE COMMON PLEAS COURT OF HARDIN COUNTY, OHIO

SCOTT GERBER : **CASE NO. 2023 1107 CVH**
Plaintiff, : **JONATHAN P. HEIN,**
vs. : **Judge by Assignment**
OHIO NORTHERN UNIVERSITY, et. al.:
Defendants. : **DECISION & JUDGMENT ENTRY-
Cross Motions for Summary Judgment**

This matter came before the Court upon the cross motions for summary judgment. Plaintiff's motion was filed June 17, 2024 and seeks summary judgment on three claims. Defendants' motion was filed June 17, 2024 and seeks summary judgment on all claims. Both motions were filed pursuant to Civil Rule 56. Responsive pleadings have been filed. The motions are ripe for decision.

Standard of Review

Summary judgment is a procedural device to terminate litigation and to avoid a formal trial where there is nothing to try. *Norris v. Ohio Standard Oil Co.*, 70 Ohio St.2d 1 (1982). In order to prevail, the moving party bears the burden of showing that there is no genuine issue of material fact. *Harless v. Willis Day Warehousing Co.*, 54 Ohio St. 2d 64 (1978); *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986). A party seeking summary judgment on the grounds that a non-moving party cannot prove its case bears the initial burden of informing the trial court of the basis for the Motion and of identifying evidence in the record which demonstrates the absence of a genuine issue of material fact on the essential elements of the non-

moving parties' claims. *Dresher v. Burt*, 75 Ohio St. 3d 280 (1996). Summary judgment is only appropriate if reasonable minds can only conclude based upon the evidence that judgment for the movant is appropriate. *Vahila v. Hall*, 77 Ohio St. 3d 421 (1997).

The evidence presented on a motion for summary judgment must be construed in favor of the party opposing the motion who is given the benefit of all favorable inferences that can be drawn from it. *Williams v. First United Church of Christ*, 37 Ohio St. 2d 150 (1974). "On summary judgment the inferences to be drawn from the underlying facts contained in [the affidavits, exhibits, and depositions] must be viewed in the light most favorable to the party opposing the Motion." *United States v. Diebold Inc.*, 369 U.S. 654 (1962). The Court must not engage in the weighing of credibility of the witnesses or the quality of their testimony. *Duke v. Sanymetal Products Co.*, 31 Ohio App.2d 78 (8th Dist. 1972).

Further, a non-moving party possesses a burden pursuant to Civil Rule 56 (E). "When a Motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the party's pleadings but the party's response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." Accordingly, a party opposing summary judgment must present evidence with respect to those elements which the opposing party must establish at trial. *Celotex Corp., supra*.

Analysis

1. Claim for Breach of Contract

Both parties seek summary judgment on this claim. According to Plaintiff, the factual origin for this cause of action originated in April, 2023 when he was escorted by campus security and Ada police officers from a classroom in the presence of his students to the Office of

the Dean of the College of Law. There, he was advised that he was immediately banned from all locations on the campus unless with the University's approval to re-enter. Also, he was relieved of all University-related duties. Contemporaneously, he was offered a severance package for termination of his employment contract. When Plaintiff asked for a substantive justification, he was advised that one would be given only if the severance package was rejected and if an informal mediation process and/or formal disciplinary process were requested. In his claim for breach of contract, the Plaintiff alleges numerous violations of the terms of his employment as set forth in the Faculty Handbook. He also claims that his employment was terminated because of his opinions on the University's employment policies and as retaliation for making complaints with regulatory agencies that these policies were unlawful.

The Defendants disagree with Plaintiff's conclusions in all respects. Admittedly, the Plaintiff earned past academic achievements (at the University and other institutions) and that he was granted tenure relatively quickly after employment with the University. Defendants acknowledge that Plaintiff's opinions about affirmative action and faculty hiring policies are long-held beliefs yet deny that his beliefs are any part of the basis for dismissal. Instead, Defendants describe Plaintiff as intolerant of opposing opinions, disruptive, uncooperative and demeaning of faculty and staff members.¹ These deficiencies were articulated in a 2020 Tenure review notice that his offensive demeanor and "corrosive" conduct needed to be improved and, if not, that his continued employment might be affected. In summary, Defendants claim that all procedural requirements of the Faculty Handbook were followed during the disciplinary process and that there existed sufficient cause for Plaintiff's dismissal.

First, Plaintiff claims that summary judgment should be granted in his favor for

¹ That Plaintiff is neither Plato nor Kafka's Josef K. is both self-evident and hyperbolic. Further, that Defendants are not Kafka's inaccessible, accusatory Magistrate is equally self-evident. These characterizations from The Trial

various procedural defects which did not comply with procedures outlined in the Faculty Handbook. The Court finds that the record supports Plaintiff's claim that Defendants failed to provide notice of specific grievances to Plaintiff for purposes of an informal conference process and a mediation process. However, there remain questions whether specificity was required and whether such defects were material to the termination decision. For example, would Plaintiff have accepted a settlement (i.e. severance package) following an informal conference even if he received specified grounds for termination? Also, would a five-member mediation committee have been able to resolve the dispute if Plaintiff and the Committee were advised of the specific grievances? Accordingly, even if Plaintiff's assertions are accurate, such violations are not sufficient grounds to grant summary judgment for Plaintiff. Defendants' reference to *Burlington Resources Oil and Gas Co. v. Cox*, 133 Ohio App.3d 543 (4th Dist. 1999) is persuasive.

Troubling for the Court are the following defects by the Committee on Dismissal of Faculty (CDF) during the disciplinary hearing process: (1) the lack of cross-examination when evidence included written testimony, especially when an easy safeguard was possible with testimony by remote audio video methods;² (2) the admission of evidence outside the scope of the Bill of Particulars which was relied upon by CDF in reaching its termination decision;³ and (3) importantly, the lack of any detailed determination how Plaintiff's violations affected his fitness as a faculty member, per Handbook at section 2.7.1.

The Court acknowledges the faculty handbook grants authority to CDF to

don't otherwise seem to be a part of the record, but the analogy is understood.

² The Court rejects Plaintiff's contention that remote audio video methods violate the right to cross-examination. *State v. Carter*, 2024-Ohio-1247 is easily distinguished.

³ The Court's concern with particularity has been evident from the early stages of this case; lack of regard for particularity is either naive or a callous disregard for due process. Seeking to end-run the Court's order for particularity by articulating "examples" of conduct which "are not meant in any way to limit the testimony of witnesses..." violates a plain reading of the Court's order and re-writes the Faculty Handbook. Defendants' interpretation of section 2.7.6 of the Faculty Handbook by use of a lay man's "ordinary meaning" interpretation is rejected since a Bill of Particulars is a legal term of art not used in ordinary circumstances.

determine its own procedural processes for the disciplinary hearing. Also, the record is also clear that Plaintiff participated in developing the processes for the hearing. However, to the extent that the Defendants conclude that their reserved authority permits all irregularities and thereby justifies its termination decision, the Court disagrees and concludes that the Faculty Handbook would then be both illusory and unenforceable. This broad interpretation is anathema to procedural due process and is rejected by the Court.

Of particular notes is the deficiency in determining the Plaintiff's fitness to remain on the faculty. The CDF report contained a short reference which concluded that Plaintiff was not fit for faculty employment. The Court finds two problems: (1) this conclusion may be tainted by the other inadmissible materials and the defects described above, and (2) the conclusory nature of CDF's finding implies that finding the Plaintiff "guilty of all three charges" resulted in a *per se* determination of unfitness by CDF.⁴ That the determination of fitness did not include deliberations concerning the core functions of a University, such as student instruction and academic publication, is unexpected and outside the requirements of the Faculty Handbook. Therefore, the Court finds these defects to be noncompliant with provisions of the Faculty Handbook.

In spite of the three more significant defects, summary judgment cannot be granted for Plaintiff. With extraneous materials excised, the Defendants may still be correct that the jury will still find "adequate cause" required by the Faculty Handbook (i.e. "substantial evidence," per *Brahim, infra.*) for the recommendation of discharge by CDF based on the remaining admissible facts involving the three individuals named in the Bill of Particulars

⁴ The *per se* interpretation is founded in Defendants' memorandum in opposition. Similar interpretation is found in Agozzino deposition at page 84, Campbell deposition at page 28 and Baril deposition at pages 12 - 15.

(especially in the context of the 2020 Tenure Committee report).⁵ Also, would cross-examination of the author of a written document have changed the substance of the evidence?

To grant summary judgment would require the Court to assign weight (credibility) to the impact of these defects. Therefore, the Court finds that there are genuine issues of material fact with regard to Plaintiff's claim for breach of contract. Provisions of the Faculty Handbook which Plaintiff seeks to wield as a sword are also available to the University as a shield to block the Plaintiff's lunge. There is fodder for both sides of the case on the breach of contract claim; the jury must make the ultimate decision. The cross-motions for summary judgment on this issue are both overruled.⁶

An evidentiary note is provided. As an *in limine* decision, the Court opines that the jury should receive a cautionary instruction that the various procedural defects noted by Plaintiff did violate the Faculty Handbook but that the jury must still decide how these violations weigh on whether there still existed a valid justification for termination.⁷ Also, while failure to comply with the Tenure Committee report from 2020 was not listed as a reason for discharge in the Bill of Particulars, it may still be admissible as rebuttal evidence and as context. (See Exhibit 3 to Plaintiff's Affidavit Opposing Summary Judgment.)

With regard to potential damages under this claim, the Court agrees with Defendants that restoration of employment is not a remedy. Specific performance is not

⁵ The administrative process is for CDF to conduct a hearing and make a recommendation which is forwarded to the University President to determine whether to submit to the Board of Trustees for final decision.

⁶ Defendant's reference to *Yackshaw v. John Carroll Univ. Bd. of Trustees*, 89 Ohio App.3d 237 (8th Dist. 1993) is informative regarding procedural issues but clearly distinguishable on the facts. Deference to administrative decisions is not without limits. When viewing the evidence most strongly for Plaintiff in this case, this Court cannot conclude that there is substantial evidence to support the discharge decision. *Brahim v. Ohio College of Podiatric Medicine*, 99 Ohio App.3d 479 (8th Dist. 1994). Exceeding the scope of the Bill of Particulars and remoteness of facts mitigate against Defendants' conclusion.

⁷ To assist counsel with trial presentation, the Court informally provided its working notes which identify materials potentially outside the scope of the Bill of Particulars. Such disclosure is an *in limine* view of admissibility.

contemplated. Defendants' citations of authority on this topic, including *Masetta v. National Bronze & Aluminum Foundry Co.*, 159 Ohio St. 306 (1959), are adopted and incorporated herein.

2. Claim for Retaliation

Both parties seek summary judgment on this claim. This claim apparently originated with the Plaintiff's objections to hiring practices by the University which consider race, ethnicity and gender as qualifications for hiring faculty (described by Plaintiff as unlawful DEI hiring practices). His conclusion was supported by, among other evidence, (1) the deposition of Dallon Flake, (2) an American Bar Association site visit report, and (3) a May, 2021 report and recommendation from a University Commission recommending that hiring considerations include race, ethnicity and gender considerations (which Plaintiff described as "quotas.")

In June, 2022, Plaintiff filed complaints with both the United States Equal Employment Opportunity Commission (EEOC) and the Ohio Civil Rights Commission (OCRC). Plaintiff claims that his discrimination complaints prompted an internal investigation against him by the University. This investigation and its findings (known in this case as "the Taft report") are a pretext for his claimed inevitable and unlawful discharge.

Defendants respond by acknowledging that Plaintiff possesses a long history of publications critical of DEI hiring practices and its awareness of this philosophy prior to his employment. However, the University also notes that it did not regulate his intellectual content; instead, over the years, it granted him monetary awards, a ceremonial award and various positions of influence within the University unrelated to his opinions on DEI hiring practices. Further, the University reminds the Court that Plaintiff's conduct was never above scrutiny since the Faculty Handbook regulates the faculty's conduct and behavior.

To understand proof necessary to establish a claim for retaliation, *Hollingsworth*

v. *Time Warner Cable*, 2004-Ohio-3130 (1st Dist.) is instructive and succinct:

{¶ 39} Under Title VII, an employer may not retaliate against an employee who has opposed a practice made unlawful by Sections 2000e through 2000e-17, Title 42, U.S. Code, or who has made a charge, testified, assisted, or participated in an investigation, proceeding or hearing under these sections. Under Ohio law, R.C. 4112.02(I) makes it an unlawful employment practice “[f]or any person to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice defined in this section or because that person has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under sections 4112.01 to 4112.07 of the Revised Code.”

{¶ 40} The test for establishing a retaliation claim under federal and state law is basically the same. To prove a prima facie case of retaliation under Title VII or R.C. 4112.01 et seq., a plaintiff must demonstrate that (1) she engaged in a protected activity; (2) her employer knew about the protected activity; (3) her employer took adverse employment action against the plaintiff; and (4) there was a causal connection between the protected activity and the adverse employment action.

{¶ 41} If the plaintiff establishes a prima facie case, then the burden shifts to the employer to “articulate some legitimate, nondiscriminatory reason” for its actions. The plaintiff must then demonstrate “that the proffered reason was not the true reason for the employment decision.”

See also *Childs v. Kroger Co.*, 2023-Ohio-2034, ¶ 99 (10th Dist.)

It is not disputed that hiring practices which consider an applicant’s race, religion, sex or nationality as eligibility factors are unlawful except for very few circumstances. [citations omitted.] Reporting these violations to federal and state regulatory agencies would be a protected act and outside the scope of justification for employment termination. [R.C. 4112.02(I)] Thus, Plaintiff’s filing of complaints with the EEOC and OCRC would not be permissible reasons to take employment action against him. Plaintiff’s retaliation claim is based on his allegation that Defendants used his complaints to EEOC and OCRC as a basis for employment termination.

However, the Defendants point to evidence to the contrary. The University

claims that the decision of the CDF articulated numerous reasons for discharge and articulated supporting facts, notably Plaintiff's intimidating conduct toward faculty and his persistent interference with operations. The record from the CDF hearing, which involved allegations focusing on three faculty identified in the Bill of Particulars, could be understood to justify the conclusion that Plaintiff lacked civility and regard for lower ranking faculty. Similarly, the record could be understood to support the conclusion that Plaintiff was condescending, overbearing and attempting to improperly influence the decision-making of other faculty. The CDF wrote a detailed and thorough report which included findings and conclusions that justified its conclusions that Plaintiff violated the three charges in the Bill of Particulars.

However, the CDF report also included references to Plaintiff's complaints of DEI violations to regulatory agencies albeit in the context of faculty disagreements; this raises the possible inference of pretext. Additional evidence to support Plaintiff's conclusion includes consideration by the Trustees of Plaintiff's DEI complaints when deciding to terminate his employment.

The dichotomy of views necessarily raises factual questions of whether the employment termination was based solely on lawful reasons, solely on unlawful reasons and/or a mix of both. Stated another way, there are disputed questions of fact regarding causation: whether the termination of Plaintiff's employment was connected to his lawful reporting of alleged illegal hiring practices by the University.⁸

With regard to the retaliation claim, the Court finds that there are genuine issues

⁸ While Defendants' confidence in their position is noted, the immaterial and rhetorical question is why the University did not wait for the EEOC and OCRC to dismiss Plaintiff's seemingly baseless complaints and thereby forego the allegations of retaliation. Pursuing termination while these complaints were pending supports Plaintiff's allegation that other justifications for termination are merely a pretext to an unlawful termination. That much evidence against Plaintiff in the discharge hearing was 4 to 6 years dated does not bolster Defendants' position.

of material fact. To opine to the contrary would require the Court to weigh the credibility of the evidence: was there a lawful basis for terminating Plaintiff's employment, or was it based on, or tainted by, the unlawful basis? Again, there is fodder for both sides of the case for which the jury must make the ultimate decision. Summary judgment is not appropriate.

Another evidentiary note is provided. Since the CDF report discussed Plaintiff's DEI complaints to regulatory agencies, the necessary remedy may be the burden shifting analysis suggested by both parties. *Childs, supra*. Such analysis, however, is not included in this decision and may only be made during the progress of trial.

3. Claim for Wrongful Termination

Defendants move for summary judgment on this claim. Plaintiff's concession in his Response filed February 28, 2024 at page #1 is determinative. Therefore, Defendant's motion for summary judgment is granted on this issue. Plaintiff's claim for wrongful termination is dismissed.

4. Claim for Defamation

Both parties seek summary judgment in their favor on this claim. The Plaintiff claims defamation occurred when the University released a June, 2023 statement to the public about the suspension of Plaintiff. The statement included the following: "Our foremost concern remains the safety of our faculty, staff, and students." Similar language was also apparently distributed by staff through email to individuals. Plaintiff claims that this statement is literally inaccurate and contextually inaccurate. Plaintiff claims a second incident of defamation occurred within a written statement by the University in November, 2023 that asserted the Plaintiff was terminated for "moral turpitude."

Defendants respond by acknowledging publication of the statements about

Plaintiff but with its conclusion that the statements are not false. Further, Defendants assert that the statements are not legally actionable. As context, Defendants explain that the first statement was released in response to a Wall Street Journal Op-Ed article written by the Plaintiff about his allegedly improper approaching termination.

As explained in *Celebreeze v. Dayton Newspapers, Inc.*, 41 Ohio App.3d 343, 346-347 (8th Dist. 1988), in order to prove defamation, the Plaintiff must establish the following: (1) that there was a false statement of fact; (2) that the false statement was defamatory; (3) that the false statement was published by the defendant; (4) that the false statement proximately caused injury to the plaintiff; and (5) that the defendant acted with the requisite degree of fault (i.e. actual malice, or negligence, etc. depending on the characterization of the defamed party).

Regarding the press release, the Court notes its agreement with Plaintiff that the structure of the press release which placed the employment discharge adjacent to the public safety statement implies that the two are causally connected facts. The public safety claim may have been premised on one staff member's report on a Gerber-Newell exchange in 2021 which indicated that she considered calling the Public Safety Department. This claim may also have been a routine part of the University's public relations process to reassure interested parties that safety is always a primary concern on the University campus.

With the passage of time and the dissecting of evidence through litigation discovery, the record now seems clear that the staff member's concern for safety during the Gerber-Newell exchange was not objectively reasonable. But was it debunked before the University released the statement? Or was the staff member's (apparently erroneous) report even the basis for the press release?

Regarding the University's letter which articulated that Plaintiff's discharge was

based on “moral turpitude,” Plaintiff’s and Defendants’ references demonstrate this phrase to contain both negative and non-negative interpretations. Plaintiff claims that the negative meaning of “moral turpitude” is plainly inaccurate in this circumstance. Defendants explain that “moral turpitude” was used in a non-negative context when explaining the disciplinary process and the conclusion of the CDF.

While “moral turpitude” frequently possesses a negative connotation as Plaintiff asserts, it may also possess a non-negative denotation. Therefore, the Court finds that it cannot interpret, as a matter of law, that either a negative or non-negative meaning should be applied. There is a genuine issue of material fact on this question for which summary judgment cannot be granted.

Further, even if Plaintiff’s assertion was considered accurate, distributing a false or inflammatory statement alone does not establish a legal claim for defamation. Instead, there must be proof that there was fault at the time of distributing the statement(s). In other words, would a reasonable person under those circumstances have distributed the content of those statements? The factual context at the time of publication must be considered. See *Lansdowne v. Beacon Journal Publishing Co.*, 32 Ohio St. 3d 176 (1987). Analyzing context requires assigning weight to the evidence of fault in order to assign to the University’s decision at the time of the statements release. Presumably, context will include the jury’s consideration of the Plaintiff’s Op-Ed article in the Wall Street Journal and the accuracy thereof. This context likely invokes the Defendants’ “qualified privilege” defense articulated in *Janiszewski v. Belmont Career Ctr.*, 2017-Ohio-855 (7th Dist.).

Analyzing the degree of fault requires the Court to weigh the evidence which is impermissible for purposes of summary judgment. This weighing of evidence again originates

in the propriety of the procedures used by CDF as discussed above. The propriety of the Defendants making these statements will depend on whether the CDF is determined to have breached the terms of the employment contract, and/or whether the University is determined to have acted with a retaliatory motive. The cross-motions are denied.

The Court notes two evidentiary items. First, whether the legal standard of “fault” is one of negligence or actual malice is not yet decided. This determination may, of course, result in reconsideration of the propriety of summary judgment. Second, whether Plaintiff must still identify special damages resulting from the University’s statements may yet have merit depending on whether any statement was defamatory *per se* or defamatory *per quod* - if defamatory at all. For purposes of expediency, these issues are not decided at this time.

5. Claim for False Light

Defendants seek summary judgment on this claim and move for dismissal. A claim for false light is similar to one for defamation except that a false light claim involves a broader distribution of the statement, essentially to the public at large. A defamation can occur when a statement is distributed to a single person and/or small group of people. False light occurs when a statement is distributed to the public at large or to a group large enough to be the equivalent of the public. See *Welling v. Weinfield*, 2007-Ohio-2451; *Dickinson v. Spieldenner*, 2007-Ohio-667 (6th Dist.).

Interestingly, the publication of these facts may actually be laid at the feet of the Plaintiff through his Wall Street Journal Op-Ed article and other media discussions. As explained above, such facts may fuel Defendants’ argument that a qualified privilege existed for its statements. Nonetheless, for the reasons described above regarding the defamation claim, the Court finds that genuine issues of material fact exist and that summary judgment cannot be

granted.

6. Claim for Intentional Infliction of Emotional Distress

Defendants seek summary judgment on this claim and move for dismissal. A lay-person understanding of a claim for intentional infliction of emotional distress, as provided by Ohio Jury Instruction 429.05, is informative:

Whenever an individual intentionally or recklessly acts in an extreme and outrageous manner so as to cause serious emotional distress to another, he may be held liable for any mental or physical injury caused.

Liability exists only where the conduct is so outrageous in character and so extreme in degree that it goes beyond all possible bounds of decency and may be regarded as atrocious and utterly intolerable in a civilized community.

Mere annoyances or petty oppressions are not enough. All people are expected to be hardened to a certain amount of rough language or acts which are inconsiderate or unkind. The law does not intervene in every case where feelings are hurt.

Therefore, in order to recover, the Plaintiffs must prove by the greater weight of the evidence three elements: (1) That the Defendant intentionally or recklessly acted in an extreme and outrageous manner; and (2) That Defendant's actions proximately caused Plaintiff's psychic and/or physical injuries; and (3) That Plaintiff's mental anguish was serious and of a nature that no reasonable person could be expected to endure.

An act is extreme and outrageous when it passes all reasonable bounds of decency and is excessive, wanton, or gross.

The emotional distress or mental anguish must be serious. A reasonable person, of normal mental condition, would be unable to contend with satisfactorily a serious mental anguish or a serious emotional distress. The law cannot provide damages or protect against all mental anguish. People are required to endure some mental or emotional discomfort. To recover, the Plaintiffs must prove by the greater weight of the evidence that the distress is serious.

For the following reasons, the Court agrees with Defendants and grants summary judgment in their favor.⁹ First, in general, persons whose long-term employment has suddenly

⁹ Any one of these deficiencies would be a sufficient basis to dismiss Plaintiff's claim for intentional infliction of emotional distress.

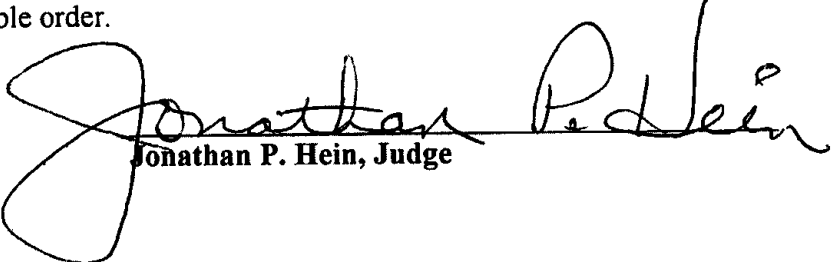
been changed - through termination, re-assignment and/or relocation - typically can be expected to experience myriad problems; however, terminating long-term employment is a common event and is not outrageous conduct in itself. Defendants' citation to *Meminger v. Ohio State University*, 2017-Ohio-9290 (10th Dist.) is persuasive. Second, the entire record of the administrative process in this case demonstrates an obvious effort by CDF to follow procedures for the dismissal hearing as outlined in the Faculty Handbook. The areas of questionable non-compliance outlined by the Court do not rise to the level of objectively extreme or outrageous conduct. Third, Plaintiff has failed to demonstrate serious and debilitating injury. See *Paugh v. Hanks*, 6 Ohio St.3d 72 (1983). While he may have diagnoses of post-traumatic stress disorder and anxiety disorder, such conditions are apparently managed through counseling and medication. Mental discomfort, personal anxiety and related physical ailments are commonly experienced; Plaintiff's condition does not establish serious and debilitating injury.

Therefore, Defendant's motion for summary judgment is granted on this issue. Plaintiff's claim for intentional infliction of emotional distress is dismissed.

IT IS, THEREFORE, ORDERED AND DECREED that the Plaintiff's motion for summary judgment is overruled.

IT IS FURTHER ORDERED AND DECREED that the Defendants' motion for summary judgment is overruled except for (1) dismissal of Plaintiff's claim for wrongful termination of employment is granted, and (2) dismissal of Plaintiff's claim for intentional infliction of emotional distress is granted.

Not a final appealable order.


Jonathan P. Hein, Judge

cc: Benjamin M. Flowers / Julie E. Byrne / Nicholas Barry, Attorneys for Plaintiff
Matthew R. Duncan / David M. Scott, Attorneys for Defendants

jph\summary.jdg\Hardin decision 2a