RENDERED: NOVEMBER 6, 2026; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2025-CA-1414-MR

JOHN CARROLL — APPELLANT

v.

APPEAL FROM SHELBY CIRCUIT COURT
HONORABLE JEFFERY L. SCHUMACHER, SPECIAL JUDGE
ACTION NO. 23-CI-00202

CHARLOTTE MARSHALL AND
SHELBY COUNTY SCHOOL
DISTRICT D/B/A SHELBY COUNTY
FINANCE CORPORATION — APPELLEES

OPINION
AFFIRMING IN PART, REVERSING IN PART,
AND REMANDING

** ** ** ** **

BEFORE: THOMPSON, CHIEF JUDGE; MOYNAHAN AND TAYLOR, JUDGES.

MOYNAHAN, JUDGE: Appellant, John Carroll ("Carroll"), appeals from a Shelby Circuit Court order granting the Appellees' motion for summary judgment. After careful review of the order, the briefs, and the record we affirm in part, reverse in part, and remand for further proceedings consistent with this Opinion.

BACKGROUND

In April 2023, the varsity baseball teams from Shelby County High School ("Shelby") and Martha Layne Collins High School ("Collins"), met for a two-game series. Carroll, a KHSAA[1]-licensed umpire and the designated umpire assignor for the 30th District, attended both games. His eldest son was an assistant coach for Shelby. A younger son was then a senior at Collins and the baseball team's starting pitcher. Carroll did not officiate the series as an umpire; he attended solely as a spectator to support his younger son. Regrettably, some of the parents and coaching staff engaged in unsportsmanlike conduct at the two games.[2]

Accounts varied widely between witnesses, but it is undisputed that Carroll's elder son—Shelby assistant coach Jonathan Carroll—was ejected from the second game and Carroll himself was escorted off the premises by two sheriff's deputies. Appellee, Charlotte Marshall ("Marshall"), was Shelby's athletic director and activities coordinator at the time. On April 12, she was coaching a softball game on an adjoining field when she was called over to deal with the escalating situation. Following the game, Marshall spoke to her coaching staff, some players, and a few spectators. On April 13, she drafted and sent an email to the following people: David Letendre, policy representative for the KHSAA 8th

[1] Kentucky High School Athletic Association.

[2] The involved parties were all noted to be adults; no students joined in the altercations.

Region; Mike Marksbury, representative for the KHSAA 30th District; Powell Miller, activities coordinator for the Shelby County Public School District; and Margo Whisman, the Shelby principal. The email explained that Carroll had both officiated games between the two schools in the past and attended the games as a fan, all without incident. However, on April 12, "lines were crossed," and Carroll had to be escorted out by sheriff's deputies following a verbal altercation with the Shelby assistant coach who also happened to be his older son. Marshall stated that the Shelby coaching staff did not doubt Carroll's integrity or officiating skills, but she wanted to inform them about recent events: specifically, Carroll had provoked and taunted Shelby players, coaching staff, and fans. Marshall indicated that she had discussed the matter with Shelby's head baseball coach, and, considering the nature of these events, there were now doubts about Carroll's impartiality following the April 11-12 games.

The KHSAA temporarily suspended Carroll from his umpiring duties. Less than a month after the Shelby-Collins series, Carroll filed a complaint and motion for injunctive relief against the Shelby County School District and Marshall. The motion requested that the school district lift the ban on him attending school sporting events and that he be allowed to attend his son's graduation. Carroll's complaint lodged claims of two intentional torts against Marshall: tortious interference with a prospective business advantage and

defamation. Marshall was sued solely in her individual capacity. The complaint was never amended to reflect her official capacity as a school district employee.

Following the KHSAA's investigation, Carroll was allowed to resume umpiring. Additionally, he interviewed for and received the promotion to 8th Region assigning secretary in July 2023.

STANDARD OF REVIEW

The standard of review upon appeal of an order granting summary judgment is "whether the trial court correctly found that there were no genuine issues as to any material fact and that the moving party was entitled to judgment as a matter of law." *Scifres v. Kraft*, 916 S.W.2d 779, 781 (Ky. App. 1996) (citing Kentucky Rules of Civil Procedure (CR) 56.03). In considering a motion for summary judgment, all facts and inferences in the record are viewed in a light most favorable to the nonmoving party and "all doubts are to be resolved in his favor." *Steelvest, Inc. v. Scansteel Serv. Ctr., Inc.*, 807 S.W.2d 476, 480 (Ky. 1991). We review a trial court's decision to grant summary judgment *de novo*. *Brown v. Griffin*, 505 S.W.3d 777, 781 (Ky. App. 2016); *see also Blackstone Mining Co. v. Travelers Ins. Co.*, 351 S.W.3d 193, 198 (Ky. 2010).

Entitlement to official or qualified official immunity is a matter of law that is likewise reviewed *de novo*. *Ritchie v. Turner*, 559 S.W.3d 822, 830 (Ky. 2018). Likewise, the more particular issue of school officials' entitlement to

qualified official immunity is a matter of law which we review *de novo*. *Patton v. Bickford*, 529 S.W.3d 717, 723 (Ky. 2016).

ANALYSIS

I. Injunction

The trial court properly granted the motion for summary judgment as to the injunction, because the issue has been rendered moot by the passage of time. Carroll's injunction asked that the school district be ordered to lift the imposed ban so he could attend "public school athletic events and graduation festivities occurring *during the remainder of the 2022-2023 season*." (Emphasis added.) By the time the trial court considered the motion for summary judgment in October 2025, the 2022-2023 season was more than two years in the past. Further, there is no evidence of record that the school district ever prohibited Carroll from attending his son's graduation, and there is no evidence of record that he was unable to do so. Finally, Carroll's response to the motion for summary judgment only addresses his allegations against Marshall and is silent as to any allegations against the school district. Therefore, the grant of summary judgment as to the Shelby County School District was wholly appropriate.

II. Tortious Interference Claim

In order to establish tortious interference with a prospective business advantage, Carroll must prove: (1) the existence of a valid business relationship or

expectancy; (2) Marshall's awareness of that expectancy; (3) Marshall's intentional interference with his expectancy; (4) Marshall's motives were improper; (5) causation; and (6) special damages. *Snow Pallet, Inc. v. Monticello Banking Co.*, 367 S.W.3d 1, 6 (Ky. App. 2012) (quoting *Monumental Life Ins. Co. v. Nationwide Retirement Solutions, Inc.*, 242 F. Supp. 2d 438, 450 (W.D. Ky. 2003)).

While Carroll may have had an expectancy that he would be considered for the 8th Region assigning secretary post, Marshall testified that she was unaware Carroll intended to apply for that position.[3] One cannot maliciously interfere with a business expectancy they know nothing about. *Seeger Enterprises, Inc. v. Town & Ctry Bank & Trust Co.*, 518 S.W.3d 791, 797 (Ky. App. 2017). Carroll claims that Marshall intentionally interfered with his expectancy, because she had her own preferred candidate for the job while Marshall testified that she did not have an alternate candidate in mind, and sent the email to update KHSAA officials about the contentious events to fulfill her job responsibilities.[4] However, we need not assess alleged personal motivations or intent, because the primary facts of the case establish that Carroll cannot make a claim for tortious interference with a prospective business advantage. Specifically, the fact that Carroll ultimately obtained the job precludes him from successfully asserting this claim. He

[3] Trial Record at p. 115.

[4] Trial Record at p. 115.

sustained no economic harm from Marshall's email and, thus, no damages. Further, Carroll cannot prove that but for the email, *i.e.* Marshall's alleged bad faith conduct, he would have been named assigning secretary. Neither damages nor causation can be established here because the email clearly did not prevent the hoped-for economic arrangement from occurring. At most, Carroll could attempt to argue that the email caused some financial loss due to a significant delay in his appointment. However, that argument would prove unavailing, because the record reveals that Carroll was named to the post as soon as the incumbent retired, only three months after the April email.[5]

III. Defamation Claim

The trial court held that, as a school district employee performing a ministerial duty, Marshall was entitled to official immunity. This is a misapprehension of the law. Official immunity is only applicable to public officers or employees when they are sued in their official capacities. Public employees sued in their individual capacities are entitled to qualified immunity. *Yanero v. Davis*, 65 S.W.3d 510, 521-22 (Ky. 2001). Here, Carroll's complaint named Marshall in her individual capacity. However, after deeming Marshall entitled to official immunity, the trial court then went on to make a qualified immunity analysis and erroneously determined that sending the email was a ministerial act

[5] Trial Record at p. 185.

rather than a discretionary act made in good faith to fulfill her job duties of supervising all Shelby athletic events and fostering good sportsmanship and fair play.

The obvious mismatch between legal standards and terms led to no small amount of confusion in the briefing. Marshall argues that we should find any incorrect wording to be inadvertent, harmless clerical error, because the trial court's ultimate judgment was legally sound. Conversely, Carroll argues that we should presume that writing the word "ministerial" instead of "discretionary" was a typographical error on the trial court's part and Marshall performed a discretionary action in bad faith that supports a reversal. However, the defamation allegations against Marshall hinge on the crucial distinction between official and qualified immunity. We cannot attribute the obvious inconsistencies to typing errors, because they resulted from judicial reasoning and are substantive in nature. The distinction between clerical error and judicial error turns on whether the error "was the deliberate result of judicial reasoning and determination, regardless of whether it was made by the clerk, by counsel, or by the judge." *Cardwell v. Commonwealth*, 12 S.W.3d 672, 674 (Ky. 2000) (quoting *Buchanan v. West Kentucky Coal Company*, 291 S.W. 32, 35 (Ky. 1927)). Here, application of the correct legal standard and corresponding analysis affects the ultimate outcome of the case; therefore, the trial court's inconsistent terminology and accompanying

analysis cannot be deemed harmless error. The case must be remanded for an accurate analysis of Marshall's entitlement to qualified official immunity.

CONCLUSION

The Shelby Circuit Court's grant of summary judgment is affirmed as to the Shelby County School District, d/b/a Shelby County Finance Corporation. The grant of summary judgment on the claim of tortious interference with a prospective business advantage is likewise affirmed. However, the grant of summary judgment on the claim of defamation is reversed. We remand to the Circuit Court with instructions to evaluate the evidence under the proper legal standard and analysis set forth above.

ALL CONCUR.

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