STATE OF MICHIGAN

COURT OF APPEALS

WILLIAM DeGROOT,

Plaintiff-Appellant,

v

NORTHERN MICHIGAN BANK and MATT N. SMITH, SR.,

Defendants-Appellees.

UNPUBLISHED
May 27, 1997

No. 192168
Dickinson Circuit Court
LC No. 94-8802 CZ

Before: O'Connell, P.J., and Sawyer and Markman, JJ.

PER CURIAM.

Plaintiff William DeGroot appeals as of right the order granting defendants' motion for summary disposition and dismissing plaintiff's claims arising from the termination of his employment. We affirm.

Plaintiff was terminated from his position as president of the western division of defendant Northern Michigan Bank [the bank] on June 15, 1994. Defendant Smith is the chairman of the bank's board of directors, its CEO and the majority stockholder. The parties do not dispute that customer complaints regarding plaintiff's active public involvement in controversial community issues were a factor in his dismissal. Following his termination, plaintiff filed a complaint alleging the following causes of action: Count I claimed the bank breached plaintiff's employment contract; Count II asserted that plaintiff was discharged in violation of public policy and plaintiff's constitutional right to freedom of speech; Count III maintained that Smith tortiously interfered with plaintiff's employment relationship; and Count IV alleged that Smith intentionally inflicted emotional distress upon plaintiff. The trial court granted defendants' motion for summary disposition and dismissed plaintiff's claims. Although the court did not specifically articulate in the record the subrule on which it relied in granting defendants' motion, the court apparently determined that summary disposition was warranted pursuant to MCR 2.116(C)(8) with regard to Counts II and IV and pursuant to MCR 2.116(C)(10) with regard to Counts I and III. Plaintiff appeals from the trial court's dismissal of Counts II, III and IV only.

Plaintiff first argues that the trial court erred by not recognizing a public policy exception to the doctrine of at-will employment where an employee is discharged for exercising his First Amendment rights. However, the bank is a private entity; the provisions of the federal and the Michigan Constitutions guaranteeing freedom of speech have been limited to protection against state action. *Hudgens v National Labor Relations Bd*, 424 US 507, 513; 96 S Ct 1029; 47 L Ed 2d 196 (1976); *Woodland v Michigan Citizens Lobby*, 423 Mich 188, 212; 378 NW2d 337 (1985); *Prysak v R L Polk Co*, 193 Mich App 1, 10; 483 NW2d 629 (1992). Plaintiff argues that his speech is more deserving of protection than the speech at issue in *Prysak*, *supra*, because his speech dealt with a matter of public concern. However, the cases holding that constitutional speech protections are not binding against private employers make no distinctions based on whether the speech at issue involves a matter of public concern. While such considerations are relevant when the case involves a public employee, *Waters v Churchill*, 511 US ___; 114 S Ct 1878, 1884; 128 L Ed 2d 686 (1994), plaintiff is not a public employee. Plaintiff has failed to cite any authority in support of his argument that the bank should be considered to be a public employer due to extensive state regulation; consequently, we decline to address it. *Winiemko v Valenti*, 203 Mich App 411, 415; 513 NW2d 181 (1994). In any event, mere regulation by the state is insufficient grounds for considering any business to be a public employer.

Although the trial court erred when it concluded that plaintiff could not maintain an action for tortious interference with an at-will employment contract, reversal is not required where the court reached the right result for the wrong reason. *Patillo v Equitable Life Assurance Society*, 199 Mich App 450, 457; 502 NW2d 696 (1993); *Gray v Pann*, 203 Mich App 461, 464; 513 NW2d 154 (1994). Summary disposition was appropriately granted because Smith is a corporate agent and his actions benefited the corporation. "It is now settled law that corporate agents are not liable for tortious interference with the corporation's contracts unless they acted solely for their own benefit with no benefit to the corporation." *Reed v Michigan Metro Girl Scout Council*, 201 Mich App 10, 13; 506 NW2d 231 (1993). In bringing plaintiff's political activities to the attention of the board of directors, Smith acted for the benefit of the bank because customers were complaining that they were offended by those activities. Therefore, because Smith acted to preserve the bank's business relationships with its customers, he cannot be held liable. *Id*.

Finally, plaintiff argues that the trial court erred in dismissing his claim for intentional infliction of emotional distress. However, as stated in *Dahlman v Oakland University*, 172 Mich App 502, 508; 432 NW2d 304 (1988), "[d]amages for intentional infliction of emotional distress are not recoverable in a breach of employment contract action." Therefore, summary disposition pursuant to MCR 2.116(C)(8) was appropriate.

Affirmed.

/s/ Peter D. O'Connell
/s/ David H. Sawyer
/s/ Stephen J. Markman