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STATE OF MICHIGAN

COURT OF APPEALS

ATHANASIOS GLAVAS, Plaintiff-Appellant,	UNPUBLISHED October 21, 2026 11:36 AM
v	No. 375989 Oakland Circuit Court
GENTHERM INCORPORATED, Defendant-Appellee.	LC No. 2023-199933-CD

Before: MURRAY, P.J., and BOONSTRA and RIORDAN, JJ.

PER CURIAM.

In this action for an alleged violation of the Whistleblowers' Protection Act (WPA), MCL 15.369 *et seq*., plaintiff appeals by right the trial court's order granting defendant summary disposition under MCR 2.116(C)(10) (no genuine issue of material fact). We affirm.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

This case arises from defendant's termination of plaintiff's employment after plaintiff informed an attorney about his concerns regarding the safety of defendant's new product. Plaintiff was the global vice president of quality for defendant, a company that produces "thermal management technologies," such as climate-controlled seats, for vehicles and industrial uses.

During 2022, defendant developed the "SP-56" device, to be installed in BMW electric vehicles to "read [the] state of health or condition of the battery." According to plaintiff, the project manager told him in April 2022 that there was a "fire concern[]" with SP-56. Specifically, BMW required the "fuse connection into the assembly" to "meet specific melting temperatures."[1] Plaintiff testified that he told his supervisor, Rafael Barkas, in June 2022 that the issues with SP-

[1] Plaintiff described this specific issue as the "curve requirement . . . ." Barkas also stated that the "HumiSeal coating," which protected SP-56 from humidity, had "a greater amount of bubbles than was desired . . . ."

56 meant that it was "not . . . sellable."[2] In June or July 2022, plaintiff also told his close friend, Harilaos Sorovigas, that he was "not comfortable" with continuing development of SP-56 because it was "defective" and "a risk for fire." In another conversation with Sorovigas in the fall of 2022, plaintiff said that defendant "wanted to ignore" BMW's specifications.

Sorovigas was licensed by the State Bar of Michigan to practice law, but he was then working as a professor for the business college at Michigan State University. He testified that he had not actively practiced law since 2017, but he described himself as plaintiff's "go-to guy" for legal advice about his work and personal affairs.[3] He did not know if he had an attorney-client relationship with plaintiff.

According to Sorovigas, the topic of reporting defendant's conduct came up in one of their conversations:

> *Q*. Did [plaintiff] ever indicate to you that he would like you to report this?
>
> *A*. His intentions—he brought it to me because he needed assistance. He was frustrated and he felt that he had a brick wall in front of him so he called me to give him guidance and I said to him when you are reporting this to me, I have a duty to report this, I'm an attorney, I have a legal responsibility for certain things, I'm going to report this and he says to me, you know, do you think if I do that I'll lose my job?

Sorovigas explained that the WPA would protect him if he made a report, but plaintiff responded that he did not trust defendant not to fire him for reporting anyway. Sorovigas then suggested that they wait to report until they were sure that defendant would not fix the problem itself:

> *Q*. . . . Did you actually report this to [the National Highway Traffic Safety Administration (NHTSA)]?
>
> *A*. No, I did not because you want to know the reason? Because [plaintiff] had informed me that they are going to do it because he's going to lose his job, as I mentioned to you, they wanted to do it themselves, voluntarily they are going to report that and also I asked him that if he reports it, it will create more problems there for the company primarily so I asked him that that would be perhaps another first cause of action but a cause of action in the later stages.
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> * * *

[2] Barkas testified that BMW performed tests on SP-56 during 2022 but was not sure whether these tests detected any fire hazard.

[3] Over the previous 10 years, plaintiff had gone to Sorovigas with legal questions about matters such as estate planning, signing defendant's covenant not to compete and nondisclosure agreements, and terminating an employee under plaintiff's supervision.

> It was the initial stages which can be, how you call it, fixed and avoid installation. So if they decide not to fix it and then they move forward with the development as is with the defect, then we need to report it if they fail to report it themselves.

Sorovigas told plaintiff to "put pressure on the upper management . . . to do the right thing," and said that he and plaintiff would report defendant if plaintiff could not "get through this." Ultimately, plaintiff never asked Sorovigas to make a report to NHTSA or any other public body, and Sorovigas took no steps toward reporting.

Plaintiff discussed SP-56 with defendant's general counsel, Wayne Kauffman, and its global warranty manager, Brian Doyle, in August or September 2022. According to plaintiff, he told them about the potential fire risk with SP-56 and that he had talked to a "personal friend and lawyer," who said, "we're doing something wrong here." But Kauffman and Doyle denied that plaintiff told them about his conversations with Sorovigas. According to Barkas, he and defendant's executive team decided to replace plaintiff in September 2022 because of plaintiff's deficient job performance, but defendant did not tell plaintiff that he would be replaced. Plaintiff testified that he discussed SP-56 again with Barkas in November 2022. He told Barkas that "[t]he fire concern is still there," and Barkas allegedly agreed the SP-56 program was "not ready." Barkas denied that plaintiff reported any safety concerns to him or disclosed that plaintiff had consulted with Sorovigas. A candidate accepted the vice president of quality position in December 2022. In January 2023, defendant informed plaintiff that his employment was terminated.

Plaintiff filed his complaint in April 2023, alleging that the termination violated the WPA. Defendant moved for summary disposition under MCR 2.116(C)(10), arguing, *inter alia*, that there was no genuine dispute of material fact that plaintiff had not engaged in protected activity under the WPA because his discussions with Sorovigas did not qualify as reports to a public body. The trial court granted defendant's motion for summary disposition, holding that Sorovigas was not a public body, and that even if he was, plaintiff did not report a violation or suspected violation of a law. The trial court also held that there was no evidence that plaintiff was about to report to NHTSA. This appeal followed.

II. THE WHISTLEBLOWERS' PROTECTION ACT

Plaintiff argues that the trial court erred when it granted defendant's motion for summary disposition on his WPA claim. We disagree.

A. STANDARD OF REVIEW

This Court reviews a trial court's grant of summary disposition de novo. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). The trial court granted defendant's motion for summary disposition under MCR 2.116(C)(10), which tests the factual sufficiency of the complaint. *Id*. at 120. We consider all "affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties in the light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law." *Id*. (citation omitted). "A genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ." *West v Gen Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003). We review issues of statutory interpretation de novo. *Gleason v Kincaid*, 323 Mich App 308, 317; 917 NW2d 685 (2018).

B. ANALYSIS

The WPA prohibits an employer from terminating an employee "because the employee, or a person acting on behalf of the employee, reports or is about to report . . . a violation or a suspected violation of a law . . . to a public body . . . ." MCL 15.362. This Court applies a burden-shifting framework to claims under the WPA. *Taylor v Modern Engineering, Inc*, 252 Mich App 655, 659; 653 NW2d 625 (2002). The first step of this framework is for the plaintiff to establish a prima facie case, which requires a showing that "(1) the plaintiff was engaged in a protected activity as defined by the WPA, (2) the plaintiff was discharged, and (3) a causal connection existed between the protected activity and the discharge." *McNeill-Marks v MidMichigan Med Ctr-Gratiot*, 316 Mich App 1, 16; 891 NW2d 528 (2016) (*McNeill-Marks I*) (quotation marks and citation omitted).

Protected activity includes "(1) reporting to a public body a violation of a law, regulation, or rule; (2) being about to report such a violation to a public body; or (3) being asked by a public body to participate in an investigation." *Id*. at 16 (quotation marks and citation omitted). MCL 15.361(d)(*iv*) defines a public body as including a "body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body." This Court has held that a practicing attorney and member of the State Bar of Michigan qualifies as a member of a public body. *McNeill-Marks I*, 316 Mich App at 23.[4] A plaintiff reports a violation "when he or she 'makes a charge' of illegality against a person or entity or 'makes known' to a public body pertinent information related to illegality." *Rivera v SVRC Indus, Inc*, 327 Mich App 446, 464; 934 NW2d 286 (2019), rev'd in part on other grounds 507 Mich 962 (2021). But because MCL 15.362 refers specifically to "a violation or suspected violation of 'a' law and not just a violation of law, a plaintiff may not simply report a violation of law generally." *Stefanski v Saginaw Co 911 Communications Ctr Auth*, ___ Mich ___, ___; ___ NW3d ___ (2025) (Docket No. 166663); slip op at 13. Rather, "a plaintiff must show that the reported violation was, in fact, a violation of 'a' law." *Id*.[5]

In this case, even if Sorovigas qualifies as a public body, plaintiff's WPA claim fails as a matter of law because he did not report to Sorovigas a violation or suspected violation of a law, regulation, or rule. Plaintiff had significant safety concerns about defendant's approach to the

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[4] Our Supreme Court heard oral argument on an application for leave to appeal in *McNeill-Marks* but ultimately denied leave to appeal. *McNeill-Marks v MidMichigan Med Ctr-Gratiot*, 502 Mich 851 (2018). Yet three of our Supreme Court Justices have questioned whether simply being a dues-paying member of the State Bar of Michigan is sufficient for an attorney to qualify as a member of a public body under the WPA. Justice Zahra has argued that the SBM is not a public body. See *id*. at 851 (ZAHRA, J., dissenting); *Rivera v SVRC Indus, Inc*, 507 Mich 962, 964 (2021) (ZAHRA, J., concurring). Justices Viviano and Welch have suggested that the Court should consider in a future case whether the term "member" as used in the WPA "only includes members of the SBM with some decision-making authority regarding that body but excludes the licensed lawyer who has no role in the SBM other than simply paying his or her dues to be a nominal member." *Rivera*, 507 Mich at 965 (VIVIANO, J., concurring).

[5] Because MCL 15.362 also protects employees who report a "suspected violation" of a law, we do not interpret this statement from our Supreme Court to mean that the plaintiff must conclusively establish that the reported conduct *actually* violated a law. Rather, to establish his prima facie case, the plaintiff must specifically identify the law that was allegedly violated.

development of SP-56, but he did not make a charge of illegality against defendant when he spoke with Sorovigas. The evidence suggests that plaintiff was unsure whether defendant's conduct was illegal—he went to Sorovigas for general "guidance," asking questions like "what should we do about this? Do you find this right? Do you think this is wrong?" Sorovigas told plaintiff that he should work with defendant internally to resolve the issue and that they would not have to report defendant unless defendant decided to "move forward . . . with the defect" and failed to self-report. Plaintiff's purpose in speaking with Sorovigas was not to affirmatively report defendant's conduct but to clarify whether the conduct was "wrong" and assess his options. Furthermore, plaintiff has not identified in his complaint, in his response to defendant's motion for summary disposition, or even on appeal, the specific law, regulation, or rule that he believes defendant to have violated. Even if plaintiff believed that defendant's conduct was illegal and made that conduct known to Sorovigas, such a general assertion of illegality is not protected activity under the WPA. See *id*.

There was also no evidence that plaintiff was about to report a violation. "When pursuing an about to report' claim under the WPA, a plaintiff bears the burden of proving by clear and convincing evidence that he or she was *on the verge* of reporting a suspected violation of law." *Rivera*, 327 Mich App at 459 (emphasis added). In addition to failing to specify the law that was allegedly violated, plaintiff never testified that he told defendant that he would report his concerns to NHTSA, and Barkas stated that he and plaintiff never discussed filing such a report. Plaintiff's conversations with Sorovigas also did not establish that he was about to report. They discussed the benefits and risks of reporting, and Sorovigas suggested that they wait to report until defendant moved forward without fixing the defect and failed to self-report. Mere "inquiries about potential consequences [do] not indicate an affirmative intent to *actually* report," even if pertinent information is communicated to a public body. *Id*. at 461. And simply wanting or hoping that someone else will report is not the same as being "about to report." *Rivera v SVRC Indus, Inc*, 507 Mich 962 (2021).

Because generally discussing suspicious behavior with an attorney is not a protected activity, plaintiff has failed to establish a prima facie claim of retaliation under the WPA. Accordingly, the trial court did not err when it granted defendant's motion for summary disposition.[6]

Affirmed.

/s/ Christopher M. Murray
/s/ Mark T. Boonstra
/s/ Michael J. Riordan

[6] Because we affirm the trial court's ruling on the basis that plaintiff did not engage in protected activity, we do not address plaintiff's additional arguments regarding causation or defendant's alleged business reasons for terminating plaintiff.