

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)
Nicole M. Pioli,)
)
Plaintiff,)
)
v.)
)
Great Oak Equine Assisted Programs,)
Shawna Dietrich, Gary Finnan, and)
Grace Flanders)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

C/A No. 2023-CP-02-02730

Order Denying Plaintiff’s Motion for Preliminary Injunction and Relief Pursuant to the South Carolina Freedom of Information Act

This matter came before the undersigned on Plaintiff’s Motion for Preliminary Injunction and Relief Pursuant to the South Carolina Freedom of Information Act. After careful review and consideration of the Plaintiff’s Verified Complaint, the Plaintiff’s Memorandum in Support of Plaintiffs Motion and corresponding exhibits (“Memorandum in Support”), Defendants’ Memorandum in Opposition and corresponding exhibits (“Memorandum in Opposition”), and the arguments of the Attorneys during a hearing on December 28, 2023, I find that the Plaintiff’s Motion for Preliminary Injunction should be denied.

Procedural and Factual Background

Plaintiff Nicole Pioli, a former employee of Defendant Great Oak Equine Assisted Programs, filed her Complaint on December 5, 2023, which set forth various state law claims arising from her termination on or about December 9, 2022, and seeking declaratory and injunctive relief, reinstatement to her former position, compensatory damages for wages and benefits, and punitive damages and attorneys’ fees and costs. On December 6, 2023, Plaintiff moved “for a

preliminary injunction pursuant to South Carolina Rule of Civil Procedure 65, and permanent relief pursuant to the South Carolina Freedom of Information Act (“FOIA”), S.C. Code Ann. §§ 30-4-10, et seq.” Plaintiff’s Memorandum in Support, p. 1. Specifically, Plaintiff seeks:

...a declaration that Great Oak’s termination of Plaintiff “is void based upon the violations of FOIA, determining Plaintiff to currently hold the position of Executive Director of Great Oak, and ordering payment of all compensation, including benefits, she would have received but for Defendants’ wrongful acts, as well as removal from Plaintiff’s personnel file any information pertaining to the purported reason for her discharge. Plaintiff also seeks an award of attorney’s fees and costs pursuant to S.C. Code Ann. § 30-4-100(B).

Id.

In their Memorandum in Opposition, Defendants summarized their response as follows:

This Court should dismiss Plaintiff’s Motion for three reasons. First, the South Carolina Freedom of Information Act is inapplicable to Great Oak, which is not a “public body,” but a South Carolina nonprofit corporation. Second, the relief sought by Plaintiff would not preserve the status quo ante as required by decades of applicable South Carolina law. Finally, Plaintiff cannot satisfy the elements required for the Court to grant a preliminary injunction. Specifically, (1) Plaintiff has failed to shoulder her heavy burden of demonstrating immediate and irreparable harm, (2) she cannot succeed on the merits of this litigation, and (3) her action is foreclosed because an adequate legal remedy is available to Plaintiff.

Defendants’ Memorandum in Opposition, pp. 1-2.

Temporary Restraining Order

Rule 65 provides, *inter alia*, that a temporary restraining order may be granted “if immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon.” Rule 65(b), SCRCF.

“The remedy of an injunction is a drastic one and ought to be applied with caution.” *Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006). “An

applicant for a preliminary injunction must allege sufficient facts to state a cause of action for injunction and demonstrate that this relief is reasonably necessary to preserve the rights of the parties during the litigation.” *Allegro, Inc. v. Scully*, 400 S.C. 33, 45, 733 S.E.2d 114, 121 (Ct. App. 2012). Thus, an applicant for a preliminary injunction must establish three elements to receive this relief: (1) [she] will suffer immediate, irreparable harm without the injunction; (2) [she] has a likelihood of success on the merits; and (3) [she] has no adequate remedy at law. *See id.*

“A preliminary injunction should issue only if necessary to preserve the status quo ante.” *Poynter Invs., Inc. v. Century Builders of Piedmont, Inc.*, 387 S.C. 583, 586, 694 S.E.2d 15, 17 (2010). As the Supreme Court has observed, “a temporary injunction is [used] to preserve the subject of controversy in the condition which it is at the time of the Order until opportunity is offered for full and deliberate investigation and to preserve the existing status during litigation...” *County Council of Charleston v. Felkel*, 244 S.C. 480, 483–84, 137 S.E.2d 577, 578 (1964) (citations omitted).

In deciding whether to grant an injunction, the court must balance the benefit of an injunction to the plaintiff against the inconvenience and damage to the defendant. *Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006). “The granting of temporary injunctive relief is within the sound discretion of the trial court and will not be overturned absent an abuse of that discretion.” *City of Columbia v. Pic-A-Flick Video, Inc.*, 340 S.C. 278, 282, 531 S.E.2d 518, 520-21 (2000).

Statutory Interpretation

Plaintiff seeks relief under the South Carolina Freedom of Information Act. S.C. Code Ann. §§ 30-4-10, et seq. “The interpretation of a statute [here,] is a question of law.”

DomainsNewMedia.com, LLC v. Hilton Head Island-Bluffton Chamber of Com., 423 S.C. 295, 300, 814 S.E.2d 513, 516 (2018) (quoting *Sparks v. Palmetto Hardwood, Inc.*, 406 S.C. 124, 128, 750 S.E.2d 61, 63 (2013)).

Findings and Conclusions of Law

In the case at hand, the Court finds that there was not sufficient evidence presented that would convert Great Oak Equine Assisted Programs from a private entity to a “public body,” as defined in S.C. Code Ann. § 30-4-20 and interpreted by our courts, for purposes of the South Carolina Freedom of Information Act. The Court further finds that expedited discovery, as requested by the Plaintiff during the hearing, is not necessary in this case. Finally, the Court finds that Plaintiff failed to prove the necessary elements that would warrant a preliminary injunction in this case.

WHEREFORE, it is hereby **ORDERED, ADJUDGED, and DECREED** that Plaintiff’s Motion for Preliminary Injunction and Relief Pursuant to the South Carolina Freedom of Information Act is **DENIED** in its entirety as set forth above.

IT IS SO ORDERED.

Courtney Clyburn Pope
Chief Judge for Administrative Purposes
Second Judicial Circuit

January __, 2024.

Aiken, South Carolina



Aiken Common Pleas

Case Caption: Nicole M Pioli VS Great Oak Equine Assisted Programs , defendant,
et al
Case Number: 2023CP0202730
Type: Order/Temporary Injunction

So Ordered

The Honorable Courtney Clyburn Pope