

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

MARK FRIEDMAN

PLAINTIFF

v.

CIVIL ACTION NO. 3:96CV-584-S

RONALD BISHOP, et al.

DEFENDANTS

MEMORANDUM OPINION

The events giving rise to this action began when the plaintiff, Mark Friedman, was discharged from his employment at the Jefferson County Corrections Department following an investigation into charges of sexual harassment made by three female corrections employees. The County Judge-Executive and County Fiscal Court approved Friedman's termination. Friedman appealed the termination to the County Merit Board. Seventeen months later, the Merit Board held a hearing and recommended that Friedman be reinstated at the Department of Corrections. The County Judge-Executive rejected this recommendation and refused to permit Friedman's reinstatement.

Friedman then filed this civil rights suit against the Chief of Corrections, Investigator Angela McDonald-Hackett, the Legal Affairs Coordinator for the Jefferson County Personnel Department and investigator of Friedman's case, the County Judge-Executive, and the Fiscal Court of Jefferson County. Friedman alleged that the defendants deprived him of his Fifth and Fourteenth Amendment rights in violation of 42 U.S.C. § 1983. The defendants brought a motion for summary judgment on all of Friedman's claims. Friedman then filed a motion for partial summary judgment against the County Judge-Executive, based upon the allegedly unlawful decision of the Judge-Executive to reverse the recommendation of the Merit Board. In an order dated June 5, 1998, this court granted the defendants' motion for summary judgment

and dismissed the plaintiff's complaint. This matter is again before this court on the plaintiff's motion for reconsideration.

The plaintiff has reiterated the points he raised in his original response to the defendants' motion for summary judgment. However, the court held that the Judge-Executive is entitled to qualified immunity from liability under 42 U.S.C. §1983. The Sixth Circuit has held that "a public official is entitled to qualified immunity for conduct in performing discretionary functions so long as that conduct does not violate clearly established statutory or constitutional rights of which a reasonable officer would have known." *Wegener v. Covington*, 933 F.2d 390, 392 (6th Cir. 1991). For a right to be clearly established, the unlawfulness of the official's conduct must be apparent from existing law. *Id.* There is no binding authority in this jurisdiction holding that the Judge-Executive's conduct violated a clearly established law.

Friedman also claims that his constitutional rights were violated because there was a seventeen month delay between his termination and his hearing and the hearing itself was an "exercise in futility." Friedman has presented no evidence, however, that the delay was unreasonably prolonged or that the hearing was futile, other than the fact that the result was unfavorable to him. This allegation is insufficient to establish a constitutional violation. Accordingly, we will deny the plaintiff's motion for reconsideration.

This _____ day of _____, 1998.

CHARLES R. SIMPSON III, CHIEF JUDGE
UNITED STATES DISTRICT COURT

cc: Counsel of Record

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

MARK FRIEDMAN

PLAINTIFF

v.

CIVIL ACTION NO. 3:96CV-584-S

RONALD BISHOP, et al.

DEFENDANTS

ORDER

For the reasons stated in the memorandum opinion entered date, the plaintiffs' motion to **RECONSIDER** the order of this court entered June 5, 1998 is **DENIED**.

IT IS SO ORDERED this ____ day of _____, 1998.

CHARLES R. SIMPSON III, CHIEF JUDGE
UNITED STATES DISTRICT COURT

cc: Counsel of Record