

Circuit Court for Baltimore City
Case No: 24-C-19-000447

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 447

September Term, 2019

OBED NORMAN

v.

MORGAN STATE UNIVERSITY, *et al.*

Berger,
Leahy,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 10, 2020

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Obed Norman, appellant, appeals from an order entered in the Circuit Court for Baltimore City granting the appellees’ motion for summary judgment. For the following reasons, we shall affirm the decision of the circuit court.

BACKGROUND

From 2005 through 2011, Mr. Norman was employed as a tenure track professor at Morgan State University (“MSU”).¹ In 2009, Mr. Norman applied for tenure at MSU, but his application was ultimately denied. In 2011, a dispute arose between the parties regarding whether Mr. Norman filed a timely appeal of the tenure denial with the provost’s office at MSU. Mr. Norman maintained that he had filed a timely appeal on April 20, 2010, but he was notified by MSU that “they had no record of [his] appeal and would therefore not consider [his] appeal.” Believing that a date-stamped copy of his appeal had been stolen during a burglary of his home, Mr. Norman could not refute MSU’s claim with documentation.

In October 2011, Mr. Norman filed an employment discrimination claim against MSU with the Maryland Commission on Civil Rights, asserting that he was denied tenure on the basis of his race, gender, and national origin. Following mediation, the parties entered into a settlement agreement and release (“Release”), “solely for the purpose of resolving any and all claims arising out of [Mr. Norman’s] employment at MSU.” In

¹ The appellees to this appeal include Morgan State University, David Wilson, Glenda Prime, Patricia Welch, Joan Robinson, Jane Doe, Armada Grant, David Terrel, Elijah Cummings, Kweisi Mfume, Maryland State Treasure, Mildred Ofosu, and Edet Isuk.

exchange for “a full-time contractual, non-tenure track position as Lecturer . . . for the academic year 2012-2013,” Mr. Norman released MSU from:

“any and all claims, demands, agreements, actions, suits, costs, expenses, damages and right of compensation of whatever kind in law, equity, or otherwise, known or unknown, which have existed or which may exist at any time prior to the effective date of the Agreement (except to enforce the terms of this Agreement . . .).”

Mr. Norman also released MSU from any “claims arising out of any oral or written contract or agreement previously entered into by [the parties], and other claims for breach of contract, misrepresentation, defamation, libel, slander, wrongful discharge, or any other tort.”

In October 2018, “by a stroke of sheer luck,” Mr. Norman asserts that he found the date-stamped copy of the appeal “while sorting through his papers recently retrieved from a local storage.” Therefore, in January 2019, Mr. Norman filed a complaint in the Circuit Court for Baltimore City against MSU alleging that MSU had “fraudulently concealed material information that has only now been discovered and provides a basis for a nullification of the release agreement contract of 2012.”² As relief, Mr. Norman sought cancellation of the Release, a monetary award based on MSU’s alleged fraud, and, to the extent that a monetary award was not permitted, that the court toll the statute of limitations

² Attached to his 2019 complaint, Mr. Norman provided a copy of the purported date-stamped copy of his tenure appeal. We note that the authenticity of this document is dubious as it was notarized by a notary whose commission expires in 2020. Because notary commissions in Maryland last only four years, it cannot be an exact copy of Mr. Norman’s tenure appeal as it was filed, if it was filed, in 2010.

for breach of contract and employment discrimination claims against MSU, so that he could pursue “the now time barred remedies in court.”

In response, MSU filed a motion to dismiss or, in the alternative, for summary judgment, contending that Mr. Norman’s claims were barred by the Release and res judicata. Following written opposition by Mr. Norman, the circuit court entered an order granting MSU’s motion for summary judgment.

On appeal, Mr. Norman contends that the circuit court erred in granting MSU’s motion for summary judgment.

DISCUSSION

“When we review a grant of summary judgment we first determine whether there is a genuine dispute of material fact.” *Duffy v. CBS Corp.*, 458 Md. 206, 217 (2018). “If there is no genuine dispute of material fact, then we review the grant of summary judgment de novo to determine if the hearing judge’s legal conclusions were correct.” *Id.* In doing so, we view the evidence, and all inferences therefrom, in the light most favorable to the nonmoving party. *See Jones v. Mid-Atl. Funding Co.*, 362 Md. 661, 676 (2001).

It is well settled that “settlement agreements, as all other contracts scrutinized under the law of this State, are subject to interpretation in light of the settled and oft-repeated principles of objective construction.” *Bernstein v. Kapneck*, 290 Md. 452, 460 (1981) (citation omitted). “[W]here a contract is plain and unambiguous, there is no room for construction, and it must be presumed that the parties meant what they expressed.” *Id.* This Court, therefore, in interpreting the Release, must “give effect to the plain meaning of the language used.” *Id.*

It is undisputed on appeal that the Release plainly and unambiguously released MSU from any and all claims raised by Mr. Norman stemming from his employment “at any time prior to the effective date of [the Release].” This is evidenced in Mr. Norman’s complaint, in which he acknowledges that “he waived all his rights to file suit against the defendants on any issue.” It is also undisputed that the timeliness of Mr. Norman’s appeal of the tenure denial was at issue prior to the parties’ execution of the Release. Therefore, giving effect to the plain meaning of the Release, Mr. Norman relinquished any and all claims stemming from this issue. Because the central factual predicate of Mr. Norman’s 2019 complaint involves MSU’s alleged fraudulent concealment of information related to the timeliness of his tenure appeal, it was legally correct for the circuit court to conclude that the complaint was barred by the terms of the Release.

In his attempt to have the terms of the Release set aside, Mr. Norman contends that the circuit court should have used the “newly discovered” date-stamped copy of his tenure appeal as parole evidence for the purpose of circumventing the Release. Indeed, in the presence of “fraud, accident or mutual mistake,” parole evidence may be admissible “to vary, alter or contradict a contract, including a release.” *Id.* Mr. Norman argues that MSU’s purported “fraudulent concealment” of the timeliness of his tenure appeal constituted fraud, sufficient for the admission of parole evidence. However, in order to establish fraud, the following five elements must be proven:

(1) a representation made by a party was false; (2) its falsity was either known to the party or made with such reckless indifference to the truth to impute knowledge; (3) the misrepresentation was made for the purpose of defrauding some other person; (4) that person reasonably acted in reliance upon the misrepresentation with full belief in its truth, and he would not have

done the thing from which damage resulted had it not been made; and (5) the person so acting suffered damage directly resulting from the misrepresentation.

Greenfield v. Heckenbach, 144 Md. App. 108, 126 (2002).

Even viewing the evidence in the light most favorable to Mr. Norman, he is unable to satisfy the fourth element. By the explicit terms of his complaint, Mr. Norman always believed and maintained that he had filed a timely tenure appeal, even at the time he executed the Release. His complaint avers that if the date-stamped copy of the tenure appeal had been available, he “would not have signed the contract of 6/20/2012 in terms of which he waived all his rights to file suit against the defendants on any issue.” Taken together, Mr. Norman did not execute the Release relying on and fully believing the truth of MSU’s representation that it had never received his tenure appeal. Rather, he admits that he executed the release because “[w]ithout the newly available document, [he] was unable to prove . . . breach of contract by the defendants.”

Unable to establish fraud, it was proper for the court to reject Mr. Norman’s efforts to use parole evidence as a means of nullifying the terms of the Release. For the foregoing reasons, we shall affirm the decision of the circuit court.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**