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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0933-15T3

ANTHONY CASTRONOVA,

Plaintiff-Appellant,

v.

COUNTY OF BERGEN,

Defendant,

and

BERGEN COUNTY PROSECUTOR'S
OFFICE (BCPO); STATE OF
NEW JERSEY; and BERGEN
COUNTY PROSECUTOR
JOHN MOLINELLI,

Defendants-Respondents.

Argued May 9, 2017 — Decided June 12, 2017

Before Judges Reisner and Rothstadt.

On appeal from the Superior Court of New
Jersey, Law Division, Bergen County, Docket
No. L-1821-15.

Eric V. Kleiner argued the cause for
appellant.

Ashley Gagnon, Deputy Attorney General, argued the cause for respondents (Christopher S. Porrino, Attorney General, attorney; Lisa A. Puglisi, Assistant Attorney General, of counsel; Ms. Gagnon, on the brief).

PER CURIAM

Plaintiff Anthony Castronova appeals from an August 7, 2015 order dismissing his complaint against former Bergen County Prosecutor John Molinelli, the Prosecutor's Office, Bergen County, and the State of New Jersey.¹ He also appeals from an October 9, 2015 order denying his motion for reconsideration and recusal of the motion judge, and from an October 14, 2015 order denying as moot his motion seeking to change venue from Bergen County. Plaintiff likewise appeals from a December 5, 2014 order granting a change of venue from Passaic County to Bergen County, and a December 19, 2014 order denying reconsideration.

¹ Both sides presented the motion judge with materials outside the pleadings. However, the judge's decision rested on the pleadings rather than on those additional materials. See R. 4:6-2(e) (if the court considers materials outside the pleadings, the motion is converted into one for summary judgment). Nonetheless, plaintiff has included those additional materials in his appendix. We have reviewed them to determine whether, even with those supplemental materials, we could glean a viable cause of action here. See Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989). None of those materials would make a difference to the outcome of this case. We note that plaintiff's brief makes reference to additional factual allegations, which were not set forth in his complaint and are not supported by the record presented to us.

Plaintiff resigned his position as a Haworth police officer, under suspicion of involvement in organized crime. His letter of resignation stated that he resigned "in exchange for an agreement that I not be prosecuted for allegations of malfeasance in office and other related charges." The letter also acknowledged that, upon request, his former employer would provide a copy of the letter to any prospective law enforcement employer and "shall be immune from civil suit for so doing."

In his complaint, plaintiff asserted that Prosecutor Molinelli thereafter attempted to persuade other law enforcement agencies to refrain from hiring plaintiff, based on plaintiff's resignation from the Haworth police department on suspicion of criminal involvement. Plaintiff alleged that, as part of that effort, Molinelli asked officials of one of those police departments to listen to wiretap tapes from an organized crime investigation. Notably, the complaint does not allege that the information about plaintiff's resignation was false or that the wiretap tapes contained false information about him.

Plaintiff's complaint also recited that the Bergen County Prosecutor's Office indicted him for false swearing in connection with his application to two other police departments. The Prosecutor accused plaintiff of failing to disclose that he had resigned from the Haworth police department to avoid criminal

prosecution. Plaintiff's complaint alleged that the prosecutions were ill-motivated and unjustified, and interfered with his ability to obtain another law enforcement job.

Plaintiff asserted causes of action for tortious interference with economic advantage and related theories, invasion of privacy, abuse of process, intentional infliction of emotional distress for the allegedly unwarranted criminal prosecutions, intentional or negligent misrepresentation, violation of constitutional rights, and claims under the New Jersey Civil Rights Act, N.J.S.A. 10:6-2.

In a comprehensive written opinion dated August 7, 2015, Judge Robert C. Wilson concluded that, even taking plaintiff's assertions as true and viewing the complaint indulgently, the complaint failed to state a claim. Among other things, he reasoned that Molinelli was entitled to prosecutorial immunity, and that plaintiff had no constitutionally-protected property interest in prospective employment as a law enforcement officer.

Our review of the judge's order entered under Rule 4:6-2(e) is de novo. See Major v. Maquire, 224 N.J. 1, 26 (2016) (citing Smerling v. Harrah's Entm't, Inc., 389 N.J. Super. 181, 186 (App. Div. 2006)). Having reviewed the record in light of that standard, we affirm the August 7, 2015 order for the reasons stated in Judge Wilson's August 7 opinion. We affirm the October 9, 2015 order


denying reconsideration, for the reasons stated in the judge's written opinion issued with the order.

Finding no abuse of discretion, we affirm the orders relating to the change of venue from Passaic County to Bergen County, for the reasons stated by Assignment Judge Ernest M. Caposela in his written opinion dated January 9, 2015. See Rossbach v. Evening News Publ'g Co., 3 N.J. Super. 143, 145 (App. Div. 1949). We likewise affirm Assignment Judge Bonnie J. Mizdol's order dismissing, on mootness grounds, plaintiff's motion to change venue from Bergen County after his complaint was dismissed.

Plaintiff's appellate arguments are without sufficient merit to warrant further discussion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION