

present dispute.

The event that triggered this suit occurred on March 13, 2002. While Mr. Williams was on patrol that day, he stopped a female motorist because the car she was driving had an expired registration sticker. Williams Dep. at 17:17-21. As he was conducting the stop, Mr. Williams asserts that he smelled marijuana smoke and inquired as to whether the motorist smoked marijuana. Williams Dep. at 22:19-22. The motorist allegedly replied in the negative and allegedly invited Mr. Williams to search the car if he wished. Williams Dep. at 23:1-9. Mr. Williams then searched both the car and the motorist herself. Williams Dep. at 24:18-24; 25:1-2. After finding nothing in the car, Mr. Williams issued a verbal warning to the motorist with respect to the expired registration sticker, and the motorist proceeded on her way. Mr. Williams allegedly did not report this stop to his “station center,” nor did he have any written documentation with respect to the stop.¹ The motorist contacted the State Police the next day and alleged that Mr. Williams had groped her as he searched her person.

In response to the complaint, the State Police conducted both a criminal investigation and an internal investigation.² Mr. Williams was allegedly informed of the nature of the complaint on or about March 21, 2002. On or about May 28, 2002, Mr. Williams was interviewed by Lt. Susan Lysek of the Pennsylvania State Police Internal Affairs Division.³ In due course, Mr.

¹ In his deposition, Mr. Williams noted that he did call in an operator’s check on the motorist’s car during the stop. Williams Dep. at 60:9-13.

² No criminal charges were filed against Mr. Williams in connection with the incident.

³ Mr. Williams’s deposition testimony indicates that he had been given a “heads up” by his Corporal with respect to the complaint on March 14, 2002, the day after the alleged incident. Williams Dep. at 27:2-21.

LaCrosse received the investigative report with respect to the March 13 incident and, on June 25, 2002, met with Mr. Williams to inform him that Mr. LaCrosse “was considering issuing a disciplinary action report” in response to the allegations. At that time, Mr. LaCrosse allegedly asked Mr. Williams if he would like a pre-disciplinary conference regarding the matter, and Mr. Williams responded affirmatively. The conference was conducted on June 26, 2002.⁴ Mr. LaCrosse ultimately issued a disciplinary action report (the “DAR”) which reprimanded Mr. Williams for his failure to follow State Police regulations in connection with the March 13 stop.

The Police Commissioner subsequently convened a Review Panel to consider the IAD report, the DAR, and Mr. Williams’s performance reviews. After reviewing these items, the panel recommended to the Commissioner that Mr. Williams be terminated from his position as a probationary State Police trooper. The Commissioner agreed with the recommendation, and Mr. Williams’s employment as a probationary trooper was terminated as of July 30, 2002, ten months after beginning his employment with the State Police.

Mr. Williams filed the present complaint pursuant to 42 U.S.C. § 1983 (“Section 1983”) on December 15, 2003,⁵ asserting that his civil rights were violated by his allegedly selective

⁴ The parties each present different facts with respect to the disciplinary conference. For example, Defendant LaCrosse states that Mr. Williams read an eight-page written statement to Defendant LaCrosse at the conference. Memorandum of Law in Support of Defendant Thomas LaCrosse’s Motion for Summary Judgment (“Support Memo”) at 3. Mr. Williams does not mention such a recitation, but simply states that Defendant LaCrosse “met with plaintiff to discuss his actions.” Complaint at ¶ 18. Both parties do appear to agree that Defendant LaCrosse described the situation as a “she said/he said” situation. Complaint at ¶ 19; Support Memo at 4. Although the renditions of the conference differ, the Court finds that these differences are not material to the disposition of the dispute, in that Mr. Williams was afforded an opportunity appropriate for a probationary trooper to address the issues with his supervisor.

⁵ The complaint does not state whether Defendant LaCrosse is being sued in his individual or official capacity.

dismissal.⁶ Mr. Williams appears to specifically assert that the following actions, when considered in a combined context, violated his civil rights: (1) he was given no advance warning of the investigation; (2) the manner in which he was informed of the complaint, which included a recitation of his Miranda rights, was demeaning to him; (3) the alleged violation included in the DAR was inappropriate because there is no regulation requiring that every vehicle stop must be reported and there was no custom of such reporting in the Media Barracks; (4) he was never permitted to see the motorist's complaint so as to be able to properly refute the allegations; and (5) he was terminated not because of anything he did, but only because Mr. LaCrosse and other high ranking State Police officials were involved in a completely unrelated lawsuit involving sexual assaults committed by another State Police trooper.⁷

Mr. LaCrosse filed his motion for summary judgment on July 1, 2004 (Docket Nos. 6, 7), and Mr. Williams filed his opposition to the Motion on July 28, 2004 (Docket Nos. 10, 11). Oral argument on the Motion was held on November 19, 2004 (Docket Nos. 14, 15). Mr. LaCrosse argues that summary judgment should be granted in his favor because Mr. Williams has not established evidence that his constitutional rights were violated or, in the alternative, because Mr. LaCrosse is immune from suit by the doctrine of qualified immunity.

⁶ The complaint does not contain any "counts," but rather states that jurisdiction is proper pursuant to 42 U.S.C. § 1983. The account of Mr. Williams's theory of liability described herein is extracted from a section of the complaint entitled "Operative Facts."

⁷ Both the complaint and the present motion repeatedly refer to this matter as the "Evans case." No detailed explanation of the case is provided, but the filings suggest that this other case involved a pattern serious sexual assault charges, including rape, by a State Police officer. Apparently, complaints about this other trooper went unheeded by high ranking State Police officials and led to litigation. See W. Williams Dep. at 100.

DISCUSSION

A. Summary Judgment - Legal Standard

Summary judgment is appropriate “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” FED. R. CIV. P. 56(c). An issue is “genuine” if the evidence is such that a reasonable jury could return a verdict for the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986). A factual dispute is “material” if it might affect the outcome of the case under governing law. Id.

A party seeking summary judgment always bears the initial responsibility for informing the district court of the basis for its motion and identifying those portions of the record that demonstrate the absence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986). Where the non-moving party bears the burden of proof on a particular issue at trial, the moving party’s initial burden can be met simply by “pointing out to the district court that there is an absence of evidence to support the non-moving party’s case.” Id. at 325. After the moving party has met its initial burden, “the adverse party’s response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial.” FED. R. CIV. P. 56(e). Summary judgment is appropriate if the non-moving party fails to rebut by making a factual showing “sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial.” Celotex, 477 U.S. at 322. Under Rule 56, the Court must view the evidence presented in the motion in the light most favorable to the opposing party.

Anderson, 477 U.S. at 255.

B. Section 1983 Claim

To establish a claim under Section 1983, a plaintiff must demonstrate that: (1) the injurious conduct was committed by a person acting under color of state law; and (2) the conduct deprived the plaintiff of rights conferred by the Constitution or federal law. Samerica Corp. of Delaware v. City of Phila., 142 F.3d 582, 590 (3d Cir. 1998). Thus, to have a colorable claim, Mr. Williams must present sufficient evidence that his rights under the United States Constitution have been violated.

Mr. Williams asserts violations of several of his constitutional rights. First, Mr. Williams asserts that his Fourteenth Amendment rights to substantive and procedural due process were violated. Mr. Williams also asserts a violation of his First Amendment rights. Mr. Williams finally asserts a violation of his right to equal protection under the law, alleging a violation of his “equal protection right, as a public employee and citizen, to be subjected to the same rules, regulations and application of those rules and regulations, as other similarly-situated public employees or citizens.” Mr. Williams additionally seeks an award of damages for pain and suffering, humiliation, and emotional distress.

1. First Amendment Claim

Mr. LaCrosse argues that there is no record evidence that the decision to terminate Mr. Williams’s employment infringed on any activity protected by the First Amendment. In his Brief in Opposition to Defendant’s Motion for Summary Judgment (the “Opposition Memo”) and at oral argument, Mr. Williams contends that the First Amendment is implicated in this case because his performance of his job duties amounted to expressive speech, and that the allegedly

arbitrary and unreasonable manner in which he was dismissed from the state police force violated his freedom of expression. In support of this argument, Mr. Williams relies on Baldassare v. New Jersey, 250 F.3d 188, 200 (3d Cir. 2001), in which the court found that a state employed investigator who was harassed and retaliated against for his role in investigating fellow law enforcement officers had a colorable First Amendment claim. In reaching this conclusion, the court reasoned that the plaintiff's investigatory work, which encompassed exposing corruption by other law enforcement officials, was a matter of public concern and therefore amounted to protected speech. Baldassare, 250 F.3d at 196. In comparison, Mr. Williams asserts that by his arbitrary termination he was precluded from performing his role as a state police officer to protect the public,⁸ and thus his First Amendment rights have been violated. Nov. 19 Arg. Trans. at 17:9-18.

The Court of Appeals for the Third Circuit applies a three-step process in analyzing a public employee's claim of retaliation for engaging in activity protected under the First Amendment. Zugarek v. Southern Tioga School District, 214 F. Supp. 2d 468, 473 (3d Cir. 2002) (quoting Green v. Philadelphia Housing Auth., 105 F.3d 882, 885 (3d Cir. 1997)); see also Swineford v. Snyder County of Pa., 15 F.3d 1258, 1270 (3d Cir. 1994) (stating same test). First, a plaintiff must demonstrate that the activity in question was protected. Zugarek, 214 F. Supp. 2d at 473. Second, a plaintiff must show that the protected activity was a "substantial or motivating factor" in the adverse action allegedly taken because of the activity. Id. Finally, such

⁸ In his Opposition Memo, Mr. Williams asserts that his right to "perform his job, with the protections afforded him as a public employee, in a manner free of arbitrary actions of his public employer for their improper motives" constitutes a "derivative First Amendment right" which was violated. Opposition Memo at 6.

a claim may be defeated if a defendant can demonstrate that “the same action would have been taken even in the absence of the protected activity.” Id.

To determine whether speech made by a public employee is protected, a court must first assess whether the speech touches on “a matter of public concern.” Id. The Supreme Court has held that speech related to matters involving a personal grievance is not speech addressing a matter of public concern. Connick v. Myers, 461 U.S. 138, 147 (1983) (holding that speech by public employee speaking on matters of only personal interest related to grievances with employer was not protected). In assessing whether speech addresses personal, rather than public, concerns, a court should examine “the content, form and context of a given statement as revealed by the whole record.” Connick, 461 U.S. at 148. If, given the circumstances, a public employee’s speech does not present a matter of public import, the speech will not be afforded protection. Id.

In this case, actions taken by Mr. Williams in performing his job as a probationary state trooper simply do not amount to protected speech. Although the responsibilities of a state police officer, by their very nature, serve the security and protection of the public, the responsibilities that Mr. Williams alleges would be suppressed are not analogous to those detailed in Baldassare. In Baldassare, the matter of public interest at issue was alleged criminal wrongdoing by public officials and the plaintiff’s protected speech did not arise merely from an inability to perform his general investigatory duties. Baldassare, 250 F.3d at 197.

In the present case, Mr. Williams does not allege that he was terminated because he was attempting to expose deficiencies or other problems within the Pennsylvania State Police. Rather, Mr. Williams alleges that his termination was arbitrary because in Mr. Williams’s view, Mr. LaCrosse was unduly influenced by his experience in the Evans case and wanted to avoid a

similar outcome in the matter involving Mr. Williams. The fact that Mr. LaCrosse might have been more attuned or sensitive to the possibility of litigation or other claims arising out of an incident in which a female alleged wrongdoing by a police officer does not transform the actions Mr. Williams took in fulfilling his job obligations into an act of public speech.

Moreover, even if Mr. Williams argues that either his (1) request for a disciplinary hearing or (2) the eight-page statement that Mr. Williams read to Mr. LaCrosse at the time of the hearing was somehow protected speech, this claim would also fail. An examination of the eight-page statement reflects that all of Mr. Williams's speech was of a personal nature and was presented with respect to his own view of his own performance and his potential grievances with the manner in which the Media Barracks was run. Although this document admittedly contained some criticisms of State Police administration, the context of the statement does not suggest that Mr. Williams was speaking on behalf of the public interest. Because neither Mr. Williams's actions nor his stated grievances with the State Police appear to have been statements made in the public interest, his speech with respect to this matter does not fall into the category protected by the First Amendment.

2. Fourteenth Amendment - Procedural Due Process Claim

Mr. LaCrosse next argues that Mr. Williams cannot assert a procedural due process claim pursuant to the Fourteenth Amendment because, as a probationary employee, Mr. Williams had no property interest in his position as a Pennsylvania state trooper. In support of this assertion, Mr. LaCrosse correctly notes that many courts within the Third Circuit and in Pennsylvania have concluded that a probationary Pennsylvania state trooper does not have a sufficient property interest in his or her continued employment to support a procedural due process claim. See, e.g.,

Blanding v. Pennsylvania State Police, 12 F.3d 1303, 1307 (3d Cir. 1994) (interpreting state statute to find no property interest for probationary state police employee); Pipkin v. Pennsylvania State Police, 693 A.2d 190, 193 (Pa. 1997) (“the General Assembly did not have the intent of providing a probationary state trooper with an expectation of continued employment during his probationary period”); Sweeting v. Pennsylvania, 503 A.2d 1126, 1127 (Pa. Commw. Ct. 1986) (a probationary trooper . . . is not entitled to the same procedures as a non-probationary trooper, because he does not possess a *substantial* statutory right or interest” in his position) (emphasis in original).

As a predicate to his procedural due process claim, Mr. Williams must demonstrate that he had a property interest in his employment with the State Police. See Blanding v. Pennsylvania State Police, 12 F.3d 1303, 1305 (3d Cir. 1994). The existence of a property right in employment as a state trooper is grounded in the Pennsylvania Administrative Code (the “Pennsylvania Code”). Section 205(e) of the Pennsylvania Code provides that “[n]o enlisted member of the Pennsylvania State Police shall be dismissed from service or reduced in rank except by action of a court martial board held upon the recommendation of the Commissioner of the Pennsylvania State Police and the Governor.” 71 P.S. § 65(e) (West 2004). Section 205(f) of the Pennsylvania Code provides that newly employed state troopers may be dismissed by the Commissioner of the Pennsylvania State Police within the probationary period of the first eighteen months of employment for “violations of rules and regulations, incompetency, and inefficiency without action of a court martial board or the right of appeal to a civil court.” 71 P.S. § 65(f). Courts within Pennsylvania, including the Court of Appeals for the Third Circuit, have held that probationary troopers do not have a property interest in continued employment

with the State Police. See Blanding v. Pennsylvania State Police, 12 F.3d 1303, 1307 (3d Cir. 1994) (citing various Pennsylvania cases interpreting the Pennsylvania statute).

In the instant case, Mr. Williams entered the State Police Academy in March of 2001 and graduated in September of 2001. Williams Dep. at 15:1. Under the Pennsylvania statute, his probationary period would not have ended until September of 2002. Thus, Mr. Williams was still a probationary employee on March 13, 2002, when the incident in question occurred.

Although Mr. Williams repeatedly asserted in his polemic that he had been an officer for six years, he was apparently including the time that he worked as a police officer for the Lancaster City Police; this experience would not be considered to have fulfilled his probationary period with the State Police. Because Mr. Williams did not hold a property interest in his position as a probationary state trooper, he cannot assert a procedural due process claim.⁹

3. **Fourteenth Amendment - Substantive Due Process Claim**

Mr. LaCrosse next asserts that Mr. Williams has no substantive due process claim because he did not have a substantive interest in his employment with the State Police. To prevail on a substantive due process claim, a plaintiff must demonstrate that an arbitrary and capricious act deprived him of a protected property interest. Taylor Investment, Ltd. v. Upper Darby Township, 983 F.2d 1285, 1292 (3d Cir. 1993). Although it is challenging to discern from the face of the complaint or his Opposition Memo, Mr. Williams seems to assert that his substantive due process claim arises from the fact that his termination caused harm to his

⁹ The Court notes that even if Mr. Williams could somehow assert a procedural due process violation, he was given, and took advantage of, the opportunity to have a disciplinary hearing during which he was given an opportunity to speak. Thus, Mr. Williams was afforded due process to defend himself against the allegations.

reputation that, when considered with the termination of his employment, constituted a due process violation in the form of a violation of his right to liberty.

Defamation of a person's reputation (or the infringement of a party's liberty interest in his reputation) is actionable pursuant to Section 1983 only if "it occurs in the course of or is accompanied by a change or extinguishment of a right or status guaranteed by state law or the Constitution." Clark v. Township of Falls, 890 F.2d 611, 619 (3d Cir. 1989).¹⁰ Thus, for Mr. Williams to validly assert a substantive due process claim, he would need to establish that he was deprived of a substantive right established either by state law or by the Constitution, and that his dismissal was an arbitrary and capricious act.¹¹

Based on the facts and evidence presented, the Court concludes that Mr. Williams has not asserted a right the infringement of which would give rise to a claim in the realm of substantive due process. As has been discussed supra, Mr. Williams did not, as a matter of state law, have a protected property interest in his continued employment as a probationary trooper with the State Police. Additionally, as discussed herein, there is no evidence that Mr. Williams's rights under the First Amendment of the United States Constitution or his right to equal protection were violated. Because there is no evidence that Mr. Williams has presented a valid constitutional violation, his assertion of a substantive due process claim is futile.

¹⁰ This case was cited by Mr. Williams in support of his argument.

¹¹ Although there appears to be some debate about this issue among the courts, the Court of Appeals for the Third Circuit has held that a right guaranteed by *state* law does not necessarily give rise to a substantive due process claim. See Reich v. Beharry, 883 F.2d 239, 244 (3d Cir. 1989) (noting that "arbitrary and capricious" termination of a state granted right does not give rise to a substantive due process claim); Mauriello v. University of Medicine and Dentistry of New Jersey, 781 F.2d 46, 50 (3d Cir. 1986) (observing that state created rights might give rise to procedural due process claims but that substantive due process rights are federally created).

Likewise, Mr. Williams does not appear to have been deprived of a right granted him under state law. Mr. Williams was on probationary status with the State Police at the time the alleged incident occurred. It is clear to the Court – and Mr. Williams has not provided any case law to the contrary – that the Pennsylvania Code does not provide a property interest in continued employment for troopers of probationary status. Thus, Mr. Williams does not have a valid property interest conferred by state law. Because he has not shown that he has a substantive property interest that has been violated, Mr. Williams’s substantive due process claim cannot stand.

4. **Equal Protection Claim**

As was clarified by his counsel during oral argument, Mr. Williams rests his equal protection claim on the theory that he may bring such a claim as a “class of one.” In his Opposition Memo, Mr. Williams asserts that his right to equal protection was violated because “as a public employee and citizen,” he was not “subjected to the same rules, regulations and application of those rules and regulations as other similarly-situated public employees or citizens.” Mr. Williams further states that he believed himself to be a “sacrificial lamb at the altar of an employer and its agents whose motives . . . [were] unrelated to the charge of their public responsibilities.” Thus, Mr. Williams believes that his supervisors and, specifically, Mr. LaCrosse, reacted differently to this incident than they would have reacted to other similar complaints, had they not had their experiences with respect to the “Evans case.”

As Mr. Williams points out,¹² the Supreme Court has held that a plaintiff may assert an

¹² The Court notes that at oral argument counsel for Mr. Williams repeatedly referred to the “Overbrook case” in support of his equal protection theory. Upon closer review of Mr. Williams’s Opposition Memorandum, there was no such case identified in his papers. Village of

equal protection claim as a “class of one” if he alleges that he was intentionally treated differently from others similarly situated. Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000).¹³ To succeed in asserting an equal protection claim on a “class of one” theory, a plaintiff must demonstrate that (1) defendants, acting under color of state law, intentionally treated plaintiff in a manner that was irrationally and arbitrarily different from others similarly situated and (2) there was no rational basis for the difference in treatment. Eichenlaub v. Township of Indiana, 385 F.3d 274, 286-87 (3d Cir. 2004); Montanye v. Wissahickon School District, 327 F. Supp. 2d 510, 518 (E.D. Pa. 2004). The Court of Appeals for the Third Circuit has stated that the burden of establishing an irrational or arbitrary action is high, and has advised that a “class of one” equal protection claim is not “a device to dilute the stringent requirements needed to show a substantive due process violation.” Eichenlaub, 385 F.3d at 287. Thus, to survive a motion for summary judgment, Mr. Williams would have to have produced sufficient evidence that his dismissal was the result of Mr. LaCrosse intentionally treating Mr. Williams in an arbitrary and

Willowbrook v. Olech, 528 U.S. 562 (2000) was, however, cited in reference to the equal protection claim.

¹³ In Village of Willowbrook, the plaintiff, a homeowner who had successfully sued the township in which she lived, asserted an equal protection claim on the grounds that the township demanded a more extensive easement to connect her home to the municipal water supply than had been demanded of other homeowners seeking the same connection. Village of Willowbrook, 528 U.S. at 565. In her complaint, the plaintiff alleged that this demand was “irrational and wholly arbitrary,” thereby violating her right to equal protection. In finding that the plaintiff alleged sufficient facts to avoid dismissal of her complaint, the Court stated that “the number of individuals in a class is immaterial for equal protection analysis.” Id. at 564. In concurring with the per curiam opinion, Justice Breyer noted his concern that the ruling had the potential to turn ordinary violations of city or state law into constitutional violations. However, Justice Breyer agreed with the holding because the requirement that a plaintiff demonstrate “illegitimate animus” or “ill will” assuaged this concern. The Court of Appeals for the Third Circuit has noted positively Justice Breyer’s position. Eichenlaub v. Township of Indiana, 385 F.3d 274, 287 (3d Cir. 2004) (noting high standard applied to such cases).

irrational manner that was different than that afforded similarly situated probationary state troopers.

After reviewing the record in a light most favorable to Mr. Williams, the Court concludes that there is no evidence from which a reasonable juror could conclude that Mr. Williams was either treated differently than other similarly situated probationary troopers, or that Mr. LaCrosse had no rational basis for deciding to dismiss Mr. Williams. The very few citations to the record contained in Mr. Williams's Opposition Memorandum, as well as a more thorough review of the relevant case law with respect to the "class of one" equal protection doctrine conducted by the Court, do not support a finding that the investigation that resulted in Mr. Williams's termination was conducted in a manner that was arbitrary or precipitated by ill will toward Mr. Williams.

The parties do dispute whether Mr. Williams was treated more harshly than he would have been had the "Evans case" not occurred.¹⁴ See Complaint at ¶ 20; Williams Dep. at 53-55; LaCrosse Dep. at 113:8-25; 114:1-7, 16-19 (absence of "Evans" would not modify conclusion); Evanko Dep. at 18:6-25; 19:1-9 (stating that "Evans case" did not precipitate changes in investigative practices or procedures). However, this factual dispute is not material, as Mr. Williams has presented no evidence from which a reasonable juror could conclude that he was treated differently from any other probationary trooper, either before or after the "Evans case"

¹⁴ The Court notes that at oral argument, counsel for Mr. Williams stated that during his deposition, Mr. Evanko, a retired Commissioner of the State Police, stated that it was the policy of the Pennsylvania State Police to favor the state trooper in a "he said/she said" situation. However, Mr. Williams provides no citation to the record for this statement in his Opposition Memorandum and, after reviewing the entire Evanko deposition, the Court was unable to ascertain when or where this statement was made.

occurred.¹⁵

In presenting his case, Mr. Williams primarily focuses on his personal belief that the investigation regarding the alleged incident was less thorough than he would have liked.¹⁶ However, he presents no evidence, other than his own testimony, that the primary reason for his dismissal stemmed from the “Evans case” or that investigations conducted with respect to other probationary troopers charged with similar offenses were conducted in a different manner. Moreover, the scant record evidence that does exist with respect to State Police policies for dealing with allegations such as those levied against Mr. Williams suggests that Mr. LaCrosse followed State Police policy with respect to the investigation and that there was no apparent bias against Mr. Williams.¹⁷

Moreover, based on the evidence presented, no reasonable juror could conclude that Mr.

¹⁵ The Court believes that such evidence would be key to establishing a “class of one” equal protection claim, and notes that in other “class of one” equal protection claim cases, each plaintiff was able to identify another person who, it believed, had been treated differently. See Village of Willowbrook v. Olech, 528 U.S. 562, 563 (2000) (noting that other property owners were not required to provide the same easement demanded of plaintiff); Montanye v. Wissahickon School District, 327 F. Supp. 2d 510, 514 (E.D. Pa. 2004) (asserting that other employee’s reprimand was less harsh).

¹⁶ For example, Mr. Williams presents evidence that the March 13 incident might have been recorded by a neighboring bank security camera, and that the officer conducting the criminal investigation of the incident, the report of which was shared with Mr. LaCrosse, did not procure the tape. Einsel Dep. at 68-91. However, this is not evidence that Mr. Williams was treated differently than other probationary troopers facing a similar complaint.

¹⁷ For example, the incident began by the filing of a complaint sheet that was forwarded to Mr. LaCrosse, who assigned an investigator and contacted the Bureau of Professional Responsibility to initiate an internal investigation of the matter. LaCrosse Dep. at 55-57. Mr. Einsel, a director of the Pennsylvania State Police Academy, when questioned about whether there was any indication that the investigator intentionally ignored facts with respect to the investigation, responded that “there is nothing that would indicate that he deliberately did not [review the evidence]”. Einsel Dep., 88:1-10.

LaCrosse did not have a rational reason for deciding to dismiss Mr. Williams. In his deposition, Mr. LaCrosse stated that had the “Evans case” never happened, his decision to terminate Mr. Williams’s probationary employment would not have been different because Mr. Williams had violated multiple State Police regulations during the course of the traffic stop, including (1) not calling the stop in, (2) not taking any type of enforcement action, which could have included a written warning, and (3) conducting a search without a witness. LaCrosse Dep. at 149-51. Mr. LaCrosse also testified that this type of offense was serious and not routine,¹⁸ thereby warranting stronger sanctions. LaCrosse Dep. at 130:6-16. Thus, despite the parties’ dispute with respect to the alleged role of the “Evans case,” there is notably significant evidence on the record that Mr. LaCrosse had legitimate and rational reasons to impose strong sanctions against Mr. Williams. Because Mr. Williams has not provided evidence to validate the existence of a “class of one” equal protection claim, Mr. Williams’s equal protection claim cannot stand.

C. Qualified Immunity of Mr. LaCrosse

Mr. LaCrosse finally asserts that in the event that any of Mr. Williams’s assertions are upheld, he cannot be held liable for Mr. Williams’s employment termination because he enjoys a qualified immunity from such liability. Support Memo at 10-11. In general, government officials performing discretionary functions are shielded from liability for civil damages “insofar as their conduct does not violate clearly established statutory or constitutional rights or which a reasonable person would have known.” Harlow v. Fitzgerald, 457 U.S. 800, 817-18 (1982). Summary judgment based on qualified immunity is improper if genuine issues of material fact

¹⁸ The fact that there was a criminal investigation taking place in conjunction with the internal investigation was one of the factors that made this investigation unusual.

exist as to whether actions taken by a government official would violate a clearly established right. Vakilian v. Shaw, 335 F.3d 509, 515 (6th Cir. 2003). Thus, Mr. Williams tries to evade summary judgment by asserting that Mr. LaCrosse's reference to the ongoing Evans litigation against the State Police and conclusion that he could not ignore the unrelated, yet unsubstantiated, complaint against Mr. Williams, Mr. LaCrosse should have known that he was violating Mr. Williams's constitutional rights. Opposition Memo at 8.

Courts apply a two-part test to determine whether qualified immunity applies in a particular case. First, a court must consider whether the facts, considered in a light most favorable to the allegedly injured party, show that the official's conduct violated a constitutional right. Saucier v. Katz, 533 U.S. 194, 201 (2001). If it is shown that a constitutional right was violated, a court must then consider whether the right was clearly established, such that the official had reason to know the consequences of his specific actions. See Saucier, 533 U.S. at 201; Anderson v. Creighton, 483 U.S. 635, 636-37 (1987); see also Berg v. County of Allegheny, 219 F.3d 261, 272 (3d Cir. 2000). In this case, as discussed at length above, there is no evidence from which a reasonable juror could conclude that Mr. Williams's constitutional rights have been violated. Therefore, the Court need not proceed with the remainder of the qualified immunity analysis. Mr. LaCrosse is entitled to such immunity.

CONCLUSION

For the reasons discussed above, the Court concludes that summary judgment is proper in

this case, and Mr. LaCrosse's motion for summary judgment will therefore be granted. An appropriate Order follows.

/S/ _____
Gene E.K. Pratter
United States District Judge

April 20, 2005

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WILLIAM E. WILLIAMS.,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
THOMAS J. LACROSSE,	:	
	:	
Defendant.	:	NO. 03-6724

ORDER

AND NOW, this 20th day of April, 2005, upon consideration of the Motion for Summary Judgment filed by Thomas J. LaCrosse (Docket Nos. 6, 7), the response thereto (Docket Nos. 10, 11), and after oral argument on the Motion (Docket Nos. 14, 15), it is hereby ORDERED that the Motion is GRANTED.

BY THE COURT:

/S/ _____
GENE E.K. PRATTER
United States District Judge