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SJC-13754

THOMAS GALVIN vs. ROXBURY COMMUNITY COLLEGE.

Middlesex. November 3, 2025. - January 27, 2026.

Present: Gaziano, Kafker, Wendlandt, Georges, & Wolohojian, JJ.

Public Employment, Termination. Employment, Termination, Retaliation. Statute, Construction. Practice, Civil, Summary judgment.

Civil action commenced in the Superior Court Department on October 19, 2012.

Motions for summary judgment, filed on February 6, 2017, were heard by Maynard M. Kirpalani, J.; a motion for reconsideration was considered by him; and the case was tried before John T. Lu, J.

The Supreme Judicial Court on its own initiative transferred the case from the Appeals Court.

Daniel G. Cromack, Assistant Attorney General, for the defendant.

Orestes G. Brown (Bailey Buchanan also present) for the plaintiff.

KAFKER, J. The Massachusetts whistleblower act, G. L. c. 149, § 185 (MWA), prohibits a public employer from

retaliating against an employee for objecting to activities that the employee reasonably believes are unlawful. The plaintiff-employee here, Thomas Galvin, objected to the failure of the defendant-employer, Roxbury Community College (college), to report alleged sex offenses against a student (student) as required by the Federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f).[1] At issue is whether Galvin engaged in protected activity covered by the MWA where he shared responsibility for making such reports.

The college moved for summary judgment, arguing that Galvin was not a whistleblower, and even if he was, the college did not terminate him in retaliation for being a whistleblower. In his cross motion for partial summary judgment, Galvin contended that he was a whistleblower as a matter of law and thus was entitled to summary judgment on that issue, but that the cause of his termination was a disputed issue of material fact that required a trial. The motion judge concluded as a matter of law that Galvin had engaged in protected activity when he objected to the college's failure to report the alleged sex offenses pursuant to the Clery Act. The motion judge further concluded that the question of causation -- that is, whether Galvin was fired for

[1] In December 2024, the Clery Act was renamed the "Jeanne Clery Campus Safety Act." See note 2, infra.

whistleblowing or for his own performance deficiencies, including his own failures to report the alleged sex offenses -- was a question for the jury. After being instructed, consistent with the summary judgment decision, that Galvin had engaged in protected activity, the jury then decided Galvin was terminated for whistleblowing. On appeal, the college contends that the motion judge's decision allowing summary judgment on whether Galvin engaged in protected activity was incorrect and that the issue should have been decided by a jury.

We conclude that the motion judge properly decided that Galvin engaged in protected activity as a matter of law, despite his own involvement in and responsibility for reporting the alleged sex offenses, as it was undisputed that he objected to Clery Act violations and that such violations had occurred. We do so based on the express language of the MWA and its fundamental purpose, which is to encourage the reporting of unlawful activity. We also conclude that the motion judge correctly decided that summary judgment was not appropriate on the remaining elements of the whistleblower claim and that a jury should determine whether the cause of Galvin's termination was his whistleblowing or his own misconduct. Because the college did not challenge the jury instructions or verdict itself and argued only that summary judgment should not have been allowed on the question whether Galvin engaged in protected

activity, we limit our review to that question, and we therefore affirm.

1. Background. a. Facts. We summarize the facts from the summary judgment record in the light most favorable to the college, against whom partial summary judgment was entered, Rawan v. Continental Cas. Co., 483 Mass. 654, 655 (2019), reserving some additional facts for later discussion.

From April 30, 2007, to August 13, 2012, Galvin was employed by the college as the director of facilities and public safety. In this role, Galvin was the college's primary campus security authority and chief compliance officer for the Clery Act. The Clery Act requires colleges and universities that receive Federal financial aid to, among other things, collect and disclose statistics for certain "reported" crimes -- including sex offenses -- to the United States Department of Education (DOE). See 20 U.S.C. § 1092(f)(1), (5).[2] Under the Clery Act, "a crime is 'reported' when it is brought to the

[2] The Clery Act was originally enacted in 1990, Pub. L. No. 101-542, 104 Stat. 2381, and has been amended several times over the course of the events at issue. All citations in this decision refer to the version of the Clery Act in effect as of August 14, 2008, until March 7, 2013, which includes the period of time during which Galvin learned of the student's allegations and the college's failure to report them. This opinion likewise cites to the regulations and agency guidance promulgated by the DOE pursuant to the Clery Act in effect at that time. Regardless, the subsequent amendments to the statute and regulations do not have a material impact on the analysis here.

attention of a campus security authority or local law enforcement personnel." United States Department of Education, The Handbook for Campus Safety and Security Reporting 73 (2011) (Clery Act handbook). See 20 U.S.C. § 1092(f)(1)(F)(i). The applicable regulations state that a campus security authority includes not only campus police and those employees specifically designated by the college or university, but also any "official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings." 34 C.F.R. § 668.46(a).[3] Clery Act disclosures are due to the DOE on October 1 of each year and must include crimes reported to a campus security authority or local law enforcement personnel in the three most recent calendar years. 20 U.S.C. § 1092(f)(1)(F). 34 C.F.R. § 668.41(e). Each reported crime meeting the statutory criteria must be disclosed "for the calendar year in which the crime was reported to a campus security authority" -- not the calendar year in which the crime allegedly was committed (emphasis added). 34 C.F.R. § 668.46(c)(2).

[3] The DOE provides several examples of college personnel who may meet this definition, including "[a] dean of students who oversees student housing, a student center or student extracurricular activities"; and "[a] director of athletics, a team coach or a faculty advisor to a student group." Clery Act handbook, supra at 75.

For four years, Galvin's direct supervisor was Dr. Alane Shanks, vice-president of administration and finance, until Shanks left the college and Chuks Okoli replaced her in that role.

On August 26, 2010, Preston Paul Alexander, then the college's director of human resources and affirmative action, received two complaints from the student alleging that she had been sexually assaulted by two college professors.[4] The student claimed one of the assaults occurred in 2003 or 2004 and was committed by a college professor who had been fired in 2006, and the other occurred on an unspecified date by an unnamed professor. Alexander met with the student several weeks later. The student informed Alexander that in 2003, she reported one of the sexual assaults to three college employees; in 2006 and 2008, she reported the assault to the college's director of financial aid, Raymond O'Rourke; in 2008, she reported the assault to Shanks; and in 2009, she reported the assault to

[4] One complaint alleged that the student was "[s]exual[ly] violated by two professors" and that she had "discussed" the matter "in detail to V.P. Alane Shanks [but] she dropped the ball an[d] also buried original complaints." The other complaint described a sexual assault in which a professor grabbed the student from behind in the student center, pulled her against his body, and placed one hand on her breast and the other "between [her] legs and he gripped [her] vagina."

Galvin.[5] At her meeting with Alexander in 2010, the student indicated that she did not want the college's human resources office to take any action.

On September 1, 2010, Galvin sent an e-mail message to Alexander asking whether the human resources office had information about campus crimes that needed to be included in the college's 2010 Clery Act report. Notwithstanding the student's complaints, Alexander responded by e-mail, copying Shanks, and stated that there were "no reported crimes on record in Human Resources for the past year."

On November 30, 2010, Galvin received copies of the student's two complaints[6] and sent an e-mail message to Shanks, asking whether the allegations had previously been reported as required by the Clery Act. According to Galvin, Shanks told him "there is nothing to report," and according to Shanks, she stated that he should report the assaults if he believed they should be reported. Shanks then sent Galvin's e-mail message to Alexander, who responded to Galvin and confirmed that the human

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[5] Whether she reported the assault to Galvin in 2009 was a contested fact denied by Galvin. The report prepared by the college's private audit firm, discussed infra, concluded it could not confirm either position. Resolution of this contested fact is unnecessary to our resolution of the allowance of partial summary judgment.

[6] Galvin found the student's complaints under the door to his office.

resources office had received the student's complaints and taken no action on them. Galvin did not reply to this message and did not have any further discussions with Alexander about reporting these allegations. The same day as Galvin's e-mail to Shanks, Shanks directed Okoli, then comptroller, to provide the student with a presidential scholarship for her remaining balance for the fall 2010 semester and to send the student a bill with a zero balance. Okoli's office confirmed via e-mail the following day that the scholarship had been added to the student's account and her balance was zero.

In January or February 2011, Galvin met with DOE employees, showed them the student's complaints, and asked for guidance with respect to reporting the allegations pursuant to the Clery Act. The DOE employees were not sure how to report the allegations and said they would get back to Galvin.

On July 13, 2011, Galvin met with staff from the State Auditor's office and told them about the student's allegations. Galvin told them that the student had been given a scholarship shortly after senior management learned of her allegations, and he was told by Shanks and the human resources office that there was nothing to report. At the end of the meeting, Galvin was told that the State Auditor's office would notify the college's chair of the board of trustees, Michele Courton Brown, about the allegations. At around that same time, Shanks left the college,

and Okoli replaced her as the vice-president of administration and finance.

On September 9, 2011, Courton Brown delivered a letter to Galvin requesting information about the concerns he expressed to the State Auditor's office. On September 16, 2011, Galvin responded in writing with the following:

> "[The college] has failed to report a campus crime referencing [the student], a former student. This alleged sexual assault is required reporting under the Clery Act. You will materials [sic] that demonstrate that Vice President Shanks and other College officials were aware of this and did not act upon it, as required. Please note that the dismissed student was given College funds: a Presidential Scholarship a[s] directed by V.P. Alane K. Shanks to cover her Fall 2010 bill. Please further note the e-mail dated November 30, 2011, by Paul Alexander, states, 'she specified, without any inquiry from me, that she does not intend to sign any complaint related to this matter, provided that she was allowed to continue her studies at [the college].'"

On September 26, 2011, based on the information that Galvin provided, the trustees notified Galvin that the college's private audit firm, O'Connor & Drew (O'Connor), would investigate his allegations and prepare a report.

On October 1, 2011, Galvin submitted the college's 2011 Clery Act report, but he did not include the student's claims. He later testified that he omitted the claims from that report because the DOE had told him the claims were not able to be reported because one of the underlying incidents occurred in 2003, and not during the three most recent calendar years.

On May 29, 2012, O'Connor issued its final report (O'Connor report). The report concluded that the college did not report the student's claims "in 2003, the year in which [one] incident is first alleged to have been reported, . . . in 2006, the year in which a faculty member was dismissed in connection with a separate sexually related allegation,"[7] or "in 2008 and 2010, years in which the incident was reported to various [college] officials."

On July 9, 2012, Okoli completed a performance review of Galvin for July 1, 2011, through June 30, 2012. Okoli stated in the evaluation that Galvin "failed to comply with critical public safety compliance requirements"; that "[t]he institution's failure to comply with all higher education critical regulatory requirements on public safety . . . clearly attest[ed] to the lack of both responsiveness and accountability by [Galvin], in his primary role as the lead Public Safety

[7] The O'Connor report, as well as a report issued by independent counsel and discussed infra, concluded that the other complaint that precipitated the faculty member's dismissal arguably also should have been disclosed to the DOE during the relevant years and was not. The independent counsel report discusses several other allegations of sexual misconduct perpetrated by this same professor that were likewise not disclosed to the DOE pursuant to the Clery Act.

Officer"; and that Galvin's noncompliance "placed the [c]ollege in harm's way both financially and academically."[8]

On August 13, 2012, Galvin received a letter from Linda Turner, then the interim president of the college, terminating his employment. The letter stated that the decision was based on Okoli's "2011-2012 Performance Evaluation, which specifie[d] numerous deficiencies with [Galvin's] performance, and the findings presented in the recently completed [O'Connor report]."

On August 21, 2012, the executive committee of the board of trustees engaged independent counsel, Goodwin Procter LLP (Goodwin), to conduct a complete investigation of the student's allegations. Goodwin issued its final report on March 4, 2013 (Goodwin report), and concluded that the student repeatedly reported at least one of her sexual assault allegations "to [the college's] senior administrators and staff between 2008 (at the latest) and 2011," and the college "repeatedly failed to comply with its obligation under the Clery Act to disclose the allegation to the DOE."

b. Procedural history. In October 2012, Galvin commenced the present action against the college, Turner, Okoli, and Alexander. Relevant for purposes of this appeal is Galvin's

[8] The evaluation also stated that other aspects of Galvin's job performance were deficient -- including his maintenance of the college's grounds and facilities, procurement of goods and services for the college, and supervisory skills.

claim that the college wrongfully terminated him in violation of the MWA.[9] Specifically, Galvin alleged that the college fired him in retaliation for being a whistleblower with respect to the college's reporting duties under the Clery Act.

The college moved for summary judgment on Galvin's MWA claim, and Galvin cross-moved for partial summary judgment on the issue whether he engaged in protected activity and thus qualified as a whistleblower. The motion judge denied the college's motion and granted Galvin's motion as to his whistleblower status. In doing so, the motion judge reasoned that Galvin was entitled to whistleblower protection under G. L. c. 149, § 185 (b) (3), of the MWA as a matter of law because the summary judgment record undisputedly established that he "reasonably believe[d]" the college's failure to report the student's sexual assault allegations violated the Clery Act, and he "object[ed] to" this failure during his July 2011 meeting with staff from the State Auditor's office and when he responded to Courton Brown's September 2011 request for further

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[9] The other claims and defendants were dismissed before trial, and Galvin did not appeal from those dismissals.[10] The MWA also "enumerates separate protected activities concerning '[d]isclos[ure] . . . to a supervisor or to a public body,' and '[p]rovid[ing] information to . . . any public body conducting an investigation, hearing, or inquiry.'" Edwards, 488 Mass. at 569, quoting G. L. c. 149, § 185 (b) (1), (2).

information. The motion judge also denied the college's motion for reconsideration on the same issue.

The case proceeded to trial, and the trial judge instructed the jury that Galvin had engaged in protected activity by making a report to the board of trustees. He further instructed the jury that engaging in such protected activity is not a shield against legitimate employer disciplinary decisions, and that the jury would have to decide whether the college retaliated against Galvin for his protected activity -- that is, whether the protected activity was a determinative cause of Galvin's termination. The jury found for Galvin, awarding him $980,000 in damages, and the college appealed. We transferred the case to this court on our own motion.

2. Discussion. a. Standard of review. "Where the parties have cross-moved for summary judgment, we review a grant of summary judgment de novo to determine whether, viewing the evidence in the light most favorable to the unsuccessful opposing party and drawing all permissible inferences and resolving any evidentiary conflicts in that party's favor, the successful opposing party is entitled to judgment as a matter of law." Rahim v. District Attorney for the Suffolk Dist., 486 Mass. 544, 546 (2020), quoting Dzung Duy Nguyen v. Massachusetts Inst. of Tech., 479 Mass. 436, 448 (2018).

b. Relevant statutory background. "'[A] statute must be interpreted according to the intent of the Legislature,' which we derive 'from all [of the statute's] words construed by the ordinary and approved usage of the language, considered in connection with the cause of its enactment, the mischief or imperfection to be remedied and the main object to be accomplished.'" Hartnett v. Contributory Retirement Appeal Bd., 494 Mass. 612, 616 (2024), quoting Matter of the Estate of Mason, 493 Mass. 148, 151 (2023).

The MWA protects public employees from retaliation by their employers for engaging in certain protected activities. See G. L. c. 149, § 185 (b). "The elements of a whistleblower claim under G. L. c. 149, § 185, are that (1) the plaintiff-employee engaged in an activity protected by the act; (2) the protected activity was the cause of an adverse employment action, such that the employment action was retaliatory; and (3) the retaliatory action caused the plaintiff damages." Edwards v. Commonwealth, 488 Mass. 555, 568-569 (2021).

c. Protected activity. We begin with the first element. Protected activity under the MWA includes "[o]bject[ing] to, or refus[ing] to participate in any activity, policy or practice which the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law" (emphasis

added). G. L. c. 149, § 185 (b) (3).[10] Whether the belief in the violation of the law is reasonable is measured by an objective standard. See Romero v. UHS of Westwood Pembroke, Inc., 72 Mass. App. Ct. 539, 542 (2008) (summary judgment appropriately entered in whistleblower case because "[i]n the absence of any . . . evidence [of a statute, rule, regulation, or professional standard governing patient census or staffing ratio], as a matter of law, the plaintiff could not have had an objectively reasonable belief that the proposed patient census increase was in violation of any statute, rule, regulation or professional standard" [emphasis added]). See also Lynch v. Boston, 180 F.3d 1, 17 (1st Cir. 1999) ("Under the [MWA], [the plaintiff] had to demonstrate that she had an objectively reasonable basis for her belief that the perceived staffing shortage . . . created a risk to the public health and safety"). Here, the record undisputedly establishes that Galvin had an objectively reasonable basis for his objections. Simply put, he raised objections to Clery Act violations, which had undisputedly occurred. Despite the college's arguments to the contrary, where the activity objected to is undisputedly

[10] The MWA also "enumerates separate protected activities concerning '[d]isclos[ure] . . . to a supervisor or to a public body,' and '[p]rovid[ing] information to . . . any public body conducting an investigation, hearing, or inquiry.'" Edwards, 488 Mass. at 569, quoting G. L. c. 149, § 185 (b) (1), (2).

illegal, nothing further is required to establish that the employee engaged in protected activity for maintaining a claim under G. L. c. 149, § 185 (b).

More specifically, in his July 2011 meeting with State Auditor's office staff, Galvin described "possible fraud[] problems concern[ing] a sexual assault [complaint] filed with security by a student, which he was told not to pursue by Alane Shanks." Then, in his September 16, 2011 response to Courton Brown's request for information, Galvin stated that the college had failed to report a campus crime as required by the Clery Act because Shanks and other officials knew of the sexual assault allegations and did not report them. These are clearly objections, as that term is used in the MWA.

There can also be no doubt that Galvin had an objectively reasonable basis for believing that illegal activity had occurred given that Clery Act violations had undisputedly occurred. The college correctly recognizes that the student's allegations should have been reported to the DOE. As the O'Connor report determined, the college did not report the student's complaints "in 2003, the year in which [one] incident is first alleged to have been reported," "in 2006, the year in which a faculty member was dismissed in connection with a separate sexually related allegation," or "in 2008 and 2010, years in which the incident was reported to various [college]

officials." The O'Connor report further concluded that one of the alleged offenses "met the reporting requirements of the Clery Act based on the definition of the term 'reportable offenses' listed in the [Clery Act handbook]." The Goodwin report likewise explained that the student "repeatedly made [one] allegation to [the college's] senior administrators and staff between 2008 (at the latest) and 2011," but the college "repeatedly failed to comply with its obligation under the Clery Act to disclose the fact of [the student's] alleged sexual assault in its annual reports to the DOE for, at least, the years 2009 and 2010." The college does not dispute the findings of the O'Connor or Goodwin reports in this regard.

In sum, there were no disputed facts to resolve. The Clery Act required that reports of sexual offenses be reported to the DOE, and they were not. Galvin objected to the failure to make these required reports. This satisfied the statutory requirement that he objected to "activity . . . which the employee reasonably believes is in violation of a law." G. L. c. 149, § 185 (b) (3). An employee objecting to an activity undisputedly in violation of the law is, as a matter of law, objecting to an activity the employee reasonably believes to be in violation of the law. The standard for evaluating the reasonableness of the employee's belief in illegality is objective not subjective, and that objective standard is

satisfied when the conduct being objected to is undisputedly illegal.[11]

The college appears to be arguing that Galvin's objections to these undisputed Clery Act violations are nonetheless not reasonable because he was himself uncertain whether such violations had occurred, he did not report the student's allegations to the DOE in the October 1, 2011 Clery Act report, and he was trying to protect himself from discipline for his own failures to make such reports. Even if we accept these facts as contested, as we must when we read the record in the light most favorable to the college, we still conclude that summary judgment was appropriately allowed on the first element of the whistleblower claim.

The college's arguments misconstrue the statute's language and purpose. First, the statute does not require certainty that a violation has occurred. All that is required is a reasonable belief that activity is unlawful. Reasonable belief is also measured, as explained supra, by an objective, not subjective, standard that is clearly satisfied when the conduct being

[11] Because it is an objective standard and the illegality is undisputed, this case is distinguishable from those in which intent cannot be decided on summary judgment. Contrast Flesner v. Technical Communications Corp., 410 Mass. 805, 809 (1991) ("In cases where motive, intent, or other state of mind questions are at issue, summary judgment is often inappropriate").

objected to is undisputedly illegal. All of this reflects the importance of encouraging whistleblowing in order to reveal and correct unlawful or unsafe activity. By objecting, Galvin caused the college's failure to report to become public, which eventually led to the reporting required by the Clery Act.[12]

Galvin's own failures to report the offenses and involvement in the wrongdoing to which he objected also do not raise a triable issue of fact regarding the first element of a whistleblower claim, given that the activity he objected to was undisputedly unlawful.[13] The first element of the statute does not exclude objections made by employees involved in the wrongdoing. To the contrary, the statutory language is broad: protected activity is defined as objecting to or refusing to participate in "any" activity the employee reasonably believes to be a violation of law. G. L. c. 149, § 185 (b) (3). The "reasonableness" required specifically relates to the reasonableness of the belief that a violation of law has

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[12] After Galvin was fired, the college produced its October 1, 2012 Clery Act report, which included policies and procedures setting forth a Clery Act reporting infrastructure that was previously lacking, and reported dozens of Clery Act crimes during 2009 and 2010 that had not previously been reported.

[13] Where the legality of the activity being objected to is disputed, and the employee's belief in its legality might be erroneous, the factual inquiry on the first element of the whistleblower claim would be more complex, as would be the decision to allow partial summary judgment. See infra.

occurred. That reasonableness of belief is, as stated supra, measured according to an objective standard. And finally, reasonableness of belief in the illegality of the activity is not an open-ended inquiry into the reasonableness of the plaintiff's actions more generally.[14]

Further, excluding employees reporting undisputedly unlawful activity from whistleblower protection when they are implicated in the employer's wrongdoing would discourage the revelation of such wrongdoing, which is one of the purposes of the MWA.[15] Indeed, whistleblowers' exposure to, if not

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[14] As explained infra, Galvin's own misconduct, including his own reporting failures, must, as the motion judge found, still be addressed in the causation inquiry. To recover on a whistleblowing claim under the MWA, the employee must establish not only that he engaged in whistleblowing, but also that the whistleblowing was a "determinative cause" of the termination. Edwards, 488 Mass. at 568-569, 573. This occurred at trial here.

[15] The purpose of the MWA is to encourage reporting of violations of law and to protect employees who report violations of law from retaliation by their employers. See State House News Service (Advances), Aug. 18, 1993 (legislation "is needed to encourage workers to report . . . offenses without fear of retribution"); State House News Service (Advances), Apr. 11, 1994 (whistleblower protections for public employees "ensure job security for workers who report violations of laws, regulations, rules, and incidents that pose risks to public health, the environment, or safety"). See also Annot., What Constitutes Activity of Public or State Employee Protected Under State Whistleblower Protection Statute Covering Employee's "Report," "Disclosure," "Notification," or the Like of Wrongdoing -- Nature of Activity Reported, 37 A.L.R. 6th 137 (2008) (State whistleblower acts were "enacted in large part to encourage employees to 'blow the whistle' on conduct which endangers the

involvement with, the illegal or unsafe activity at issue is not at all uncommon -- that is how they often learn about the illegal or unsafe activity. See 1993 House Doc. No. 4919 (employees are often "the parties most knowledgeable about violations"); Department of Pub. Health v. Estrada, 349 Conn. 223, 259 (2024) (employee's disclosure of her own failure to verify agency director's credentials exposed agency's deficient appointment review process). The MWA, and particularly the protected activity defined in G. L. c. 149, § 185 (b) (3), thereby necessarily encompasses "misconduct in which the employee is personally involved, or in which the employee is asked to participate." Cristo v. Worcester County Sheriff's Office, 98 Mass. App. Ct. 372, 377 (2020). Thus, we conclude that an employee objecting to undisputedly illegal activity satisfies the first element of a whistleblower claim, even when the employee is implicated in such illegal activity.

d. The good faith requirement: its meaning and purpose. The college argues that Galvin's belief must be not only reasonable but also held in good faith, even if Galvin is objecting to undisputedly unlawful activity. This is incorrect.

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safety and welfare of the public"); 177 Am. Jur. Trials, State Whistleblower Statutes § 1, at 184 (2022) ("encouraging employees to report illegal or unethical workplace activities . . . is the general purpose of [State whistleblower acts]").

We begin with the text of the statute, which does not mention good faith. See Mack v. District Attorney for the Bristol Dist., 494 Mass. 1, 18 (2024), quoting Commonwealth v. Dones, 492 Mass. 291, 297 (2023) (generally, "[w]e do not read into the statute a provision which the Legislature did not see fit to put there, nor add words that the Legislature had the option to, but chose not to include"). We have, however, stated that, under the common law, "[w]e . . . assume . . . whistleblowing based on a reasonable, good faith (but erroneous) belief that the employer is violating the law should be protected" (emphasis added). Mello v. Stop & Shop Cos., 402 Mass. 555, 560 n.6 (1988).[16] Erroneous objections to wrongdoing raise a different set of considerations, including concerns

[16] Likewise, for retaliation claims brought pursuant to G. L. c. 151B, we have provided protection for claims based on reasonable, good faith but erroneous beliefs that the employer has engaged in discriminatory conduct. See, e.g., Brookline v. Alston, 487 Mass. 278, 293-294 & n.16 (2021), quoting Psy-Ed Corp. v. Klein, 459 Mass. 697, 706-707 (2011) ("a claim of retaliation [under G. L. c. 151B] may succeed even if the underlying claim of discrimination fails, provided that in asserting her discrimination claim, the claimant can prove that [she] reasonably and in good faith believed that the [employer] was engaged in wrongful discrimination" [quotation omitted; emphases added]); Abramian v. President & Fellows of Harvard College, 432 Mass. 107, 121-122 (2000), quoting Tate v. Department of Mental Health, 419 Mass. 356, 364 (1995) (employee's [G. L. c. 151B] retaliation claim can succeed "even if there was no discrimination," so long as employee "reasonably and in good faith believed that the [employer] was engaged in wrongful discrimination" [emphases added]).

about whether the objections to illegality were made in bad faith. To ensure that illegal or unsafe activities are revealed and corrected, even erroneous objections to wrongdoing may be protected, but only if they are made with an objectively reasonable and good faith belief that the objected-to activity is illegal.

Here, we are not addressing an erroneous objection to wrongdoing, or even one where the legality of the activity being objected to is unclear. Therefore, the additional concerns about erroneous or questionable objections to illegality are not present. Where the objection is not erroneous but accurate, meaning the activity that is being objected to as unlawful is undisputedly unlawful, there is no need to probe further into the motivations or good faith of the employee's belief to satisfy the first element of the whistleblower claim. The employee's own involvement in the illegal activity is instead addressed in the causation analysis in the second element of the whistleblower claim, that is, whether the cause of the termination was the whistleblowing or the employee's own misconduct.

e. The cause of the termination. In the instant case, the motion judge properly parsed the parties' competing motions for summary judgment, entering summary judgment on the first element of the whistleblower claim -- whether Galvin engaged in

protected activity -- and reserving for trial the second element of the claim -- whether whistleblowing was the cause of Galvin's termination.[17] Whether Galvin was engaged in whistleblowing and whether such whistleblowing was the cause of his termination are two different questions. See Estrada, 349 Conn. at 264 ("The relevant question [when assessing causation] is whether the employer disciplined the employee for the disclosure itself or the underlying conduct"). Although an employer cannot terminate an employee because the employee objected to the wrongdoing, an employer may of course terminate an employee for being responsible for the wrongdoing. See id. at 258 & n.7, quoting Trimmer v. United States Dep't of Labor, 174 F.3d 1098, 1104 (10th Cir. 1999) (by requiring employee to "prove causation [i.e., that he or she was disciplined as a result of the disclosure and not the underlying conduct]," "whistleblower statutes cannot 'be used by employees to shield themselves from the consequences of their own misconduct or failures'"). The causation element of the whistleblower claim is meant to resolve whether the employer fired the employee for whistleblowing or

[17] We note that Mass. R. Civ. P. 56, 365 Mass. 824 (1974), provides that a claimant may move for summary judgment "upon all or any part" of a claim. See Federal Trade Comm'n v. Surescripts, LLC, 665 F. Supp. 3d 14, 37-38 (D.D.C. 2023) (allowing summary judgment on element of claim based on similar language in Fed. R. Civ. P. 56).

other reasons. In the case of employees who both object to and are involved in the wrongdoing, the cause of the termination requires a difficult, fact-specific inquiry, which the judge properly left to the jury to decide in this case. As no argument has been made regarding the jury instructions or the verdict itself, we need not consider them.

3. Conclusion. We conclude that the motion judge properly awarded summary judgment on the first element of Galvin's whistleblower claim. This was correct because Galvin objected to undisputedly unlawful activity, that is, the college's failure to disclose reports of sexual offenses to the DOE, as required by the Clery Act. The allowance of partial summary judgment properly distinguished the undisputed facts and legal requirements necessary to decide this element of a whistleblower claim from the disputed facts and legal issues relevant to the second element of a whistleblower claim, that is, whether Galvin's whistleblowing, or his own misconduct, including his own failures to ensure compliance with the Clery Act, was the cause of his termination. As the jury decided in Galvin's favor on the second element, and no issues have been raised regarding the trial or the verdict itself, we have no reason to disturb that verdict.

Judgment affirmed.