

SUPREME COURT OF RHODE ISLAND

Russell G. Gross et al. v. Steven M. Pare et al.

185 A.3d 1242 (R.I. 2018) · No. 2017-178-Appeal · Decided June 14, 2018

SUMMARY

The Rhode Island Supreme Court affirmed summary judgment for city officials in an action arising from the plaintiff's workplace transfer and demotion. The court held that the alleged conduct was not extreme or outrageous for purposes of intentional infliction of emotional distress, that the plaintiff was not within either recognized category for negligent infliction of emotional distress, and that he had not shown publication of a false or fictitious fact supporting his invasion-of-privacy claim.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Associate Justice Maureen McKenna Goldberg; Chief Justice Suttell; Justice Goldberg; Justice Flaherty; Justice Robinson; Justice Indeglia
JURISDICTION	Rhode Island
DECIDED	June 14, 2018
DOCKET	2017-178-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from final judgment granting defendants summary judgment on claims for intentional infliction of emotional distress, negligent infliction of emotional distress, and invasion of privacy. The Supreme Court decided the appeal summarily after an order to show cause.
STANDARD OF REVIEW	The Supreme Court reviews a grant of summary judgment de novo. Summary judgment is proper when the pleadings and evidentiary materials show no genuine issue of material fact and the moving party is entitled to judgment as a matter of law; the nonmoving party must produce competent evidence of a disputed material fact.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion; precedential.
PARTIES	Russell G. Gross v. Steven M. Pare, William Trinque, James J. Lombardi

TOPICS

summary judgment

intentional infliction of emotional distress

negligent infliction of emotional distress

invasion of privacy

standard of review

PRACTICE AREAS

torts

civil procedure

employment law

appellate procedure

QUESTIONS PRESENTED

1. Whether summary judgment was proper on Gross's claim for intentional infliction of emotional distress.
2. Whether Gross could establish negligent infliction of emotional distress under either the zone-of-danger or bystander theory.
3. Whether Gross established a false-light invasion-of-privacy claim under Rhode Island General Laws § 9-1-28.1(a)(4).
4. Whether the hearing justice impermissibly engaged in fact-finding or whether genuine issues of material fact precluded summary judgment.

HOLDINGS

1. Summary judgment for defendants was proper because the alleged criticism, transfer, and demotion did not constitute conduct that was extreme and outrageous as required for intentional infliction of emotional distress.
2. Summary judgment for defendants was proper because Gross was neither within the zone of danger nor a bystander related to a victim whom he witnessed being injured, and the record did not show negligence by defendants.
3. Summary judgment for defendants was proper because Gross identified no publication of a false or fictitious fact placing him in a false light before the public.
4. The hearing justice properly treated defendants' Rule 12(b)(6) motion as a Rule 56 motion after Gross submitted materials outside the pleadings, and the record did not establish a genuine dispute of material fact.

KEY QUOTATIONS

“Summary judgment is appropriate only when 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 judgment as [a] matter of law.’” (at 1245)

“Liability has been found only where the conduct has been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.” (at 1246)

“Only two classes of persons may bring claims for negligent infliction of emotional distress: those within the ‘zone-of-danger’ who are physically endangered by the acts of a negligent defendant, and bystanders related to a victim whom they witness being injured.” (at 1247)

FACTUAL BACKGROUND

Russell G. Gross was a lieutenant in the Providence Fire Department's department of communications. After a dispute concerning a dispatcher sitting sprawled in a chair and a contentious conversation with Gross, defendants transferred Gross to the division of training and later demoted him from lieutenant to firefighter. Gross alleged that the defendants' conduct caused illness and emotional distress and asserted claims for intentional and negligent infliction of emotional distress and invasion of privacy. The related employment grievances were arbitrated and settled, and Gross later retired.

PROCEDURAL HISTORY

Gross filed suit in Providence County Superior Court after his transfer and demotion within the Providence Fire Department. Defendants initially moved to dismiss under Rule 12(b)(6). Because Gross submitted materials outside the pleadings, the hearing justice treated the motion as one for summary judgment under Rule 56 and granted judgment for defendants on all remaining claims. Gross timely appealed.

DISPOSITION

affirmed

CASES CITED

- Sola v. Leighton, 45 A.3d 502, 506 (R.I. 2012)
- Lynch v. Spirit Rent-A-Car, Inc., 965 A.2d 417, 424 (R.I. 2009)
- Plunkett v. State, 869 A.2d 1185, 1187 (R.I. 2005)
- Sullo v. Greenberg, 68 A.3d 404, 407 (R.I. 2013)
- Mutual Development Corp. v. Ward Fisher & Co., 47 A.3d 319, 323 (R.I. 2012)
- Swerdlick v. Koch, 721 A.2d 849, 862-63 (R.I. 1998)
- Champlin v. Washington Trust Co. of Westerly, 478 A.2d 985, 988-89 (R.I. 1984)
- Jalowy v. Friendly Home, Inc., 818 A.2d 698, 710 (R.I. 2003)
- Marchetti v. Parsons, 638 A.2d 1047, 1049-52 (R.I. 1994)