

SUPREME COURT OF IOWA

Frank Barreca and The Factory, L.L.C. v. George T. Nickolas and the City of Davenport

683 N.W.2d 111 (Iowa 2004) · No. No. 03-0439 · Decided June 16, 2004

SUMMARY

The Iowa Supreme Court addresses defamation and intentional infliction of emotional distress claims arising from a Davenport alderman's public repetition of false allegations about a teen dance club. The court holds that the alderman's statements were made on a qualifiedly privileged occasion, but that whether he abused the privilege by acting with knowing or reckless disregard for the truth presented a genuine issue of material fact. The court reverses summary judgment on the defamation claim and affirms dismissal of the intentional infliction of emotional distress claim for failure to show severe or extreme emotional distress.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Streit, Justice
JURISDICTION	Iowa
DECIDED	June 16, 2004
DOCKET	No. 03-0439
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from summary judgment dismissing their slander and intentional-infliction-of-emotional-distress claims.
STANDARD OF REVIEW	Summary judgment is reviewed for correction of errors at law. The record is viewed in the light most favorable to the resisting party, with all reasonable inferences drawn in that party's favor; summary judgment is proper only when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published and precedential Iowa Supreme Court opinion
PARTIES	Frank Barreca, The Factory, L.L.C. v. George T. Nickolas, City of Davenport

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QUESTIONS PRESENTED

1. Whether Nickolas's statements at the city-council meeting were made on a qualifiedly privileged occasion.
2. Whether the plaintiffs presented sufficient evidence that Nickolas abused the qualified privilege through actual malice.
3. Whether the plaintiffs presented sufficient evidence of severe or extreme emotional distress to sustain an intentional-infliction-of-emotional-distress claim.

HOLDINGS

1. An alderman is entitled to a qualified privilege for statements made in the performance of official duties on a subject pertinent and relevant to the occasion. Nickolas's statements at the Davenport City Council meeting concerning alleged indecent and illegal conduct at The Factory were made on a qualifiedly privileged occasion.
2. To defeat a qualified privilege, a plaintiff must prove that the defendant published the defamatory statement with knowing or reckless disregard for its truth. The former common-law wrongful-motive or ill-will standard is abandoned.
3. Summary judgment for defendants on the defamation claim was improper because the record contained sufficient evidence to create a genuine issue of material fact regarding whether Nickolas acted with knowing or reckless disregard for the truth and thereby abused the qualified privilege.
4. Summary judgment for defendants on the intentional-infliction-of-emotional-distress claim was proper because The Factory, as a limited liability company, could not suffer emotional distress and Barreca's alleged humiliation, embarrassment, stress, and sleeplessness did not constitute severe or extreme emotional distress.

KEY QUOTATIONS

“we discard the old common law wrongful motive standard, and adopt — by analogy — the New York Times “knowing or reckless disregard” definition of “actual malice” as the standard to be applied to determine whether a defendant has abused a qualified privilege.” (683 N.W.2d at 121)

“We follow these courts: to defeat a qualified privilege, a plaintiff must prove the defendant acted with knowing or reckless disregard of the truth of the statement.” (683 N.W.2d at 123)

“Because the plaintiffs cannot show the requisite quantum of emotional distress to establish a prima facie case, we need not decide whether they can prove outrageousness.” (683 N.W.2d at 124)

FACTUAL BACKGROUND

George Nickolas, a Davenport alderman serving as mayor pro tem, repeated at a public city-council meeting an anonymous caller's allegations that The Factory, an all-age nightclub, hosted sexually suggestive contests involving minors. He had not contacted Frank Barreca before repeating the allegations, which were broadcast by local television and radio; Nickolas later admitted the allegations were false. Barreca claimed that The Factory lost business and closed and that he suffered humiliation, embarrassment, stress, and loss of sleep.

PROCEDURAL HISTORY

Barreca and The Factory sued George Nickolas and the City of Davenport after Nickolas publicly repeated an anonymous and false allegation concerning activities at The Factory. The district court granted defendants summary judgment on both claims, concluding that Nickolas's statements were qualifiedly privileged and that plaintiffs had not shown the elements of intentional infliction of emotional distress. The Supreme Court of Iowa reversed as to defamation, affirmed as to intentional infliction of emotional distress, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings on the defamation claim; the summary judgment dismissal of the intentional-infliction-of-emotional-distress claim remains affirmed.

CASES CITED

- Vinson v. Linn-Mar Community School District, 360 N.W.2d 108 (Iowa 1984)
- Delaney v. International Union UAW Local No. 94, 675 N.W.2d 832 (Iowa 2004)
- Garofalo v. Lambda Chi Alpha Fraternity, 616 N.W.2d 647 (Iowa 2000)
- Jones v. Palmer Communications, Inc., 440 N.W.2d 884 (Iowa 1989)
- Schlegel v. Ottumwa Courier, 585 N.W.2d 217 (Iowa 1998)
- Huegerich v. IBP, Inc., 547 N.W.2d 216 (Iowa 1996)
- Lara v. Thomas, 512 N.W.2d 777 (Iowa 1994)
- Mills v. Denny, 245 Iowa 584, 63 N.W.2d 222 (1954)
- Vojak v. Jensen, 161 N.W.2d 100 (Iowa 1968)
- Winckel v. Von Maur, Inc., 652 N.W.2d 453 (Iowa 2002)
- Cowman v. LaVine, 234 N.W.2d 114 (Iowa 1975)
- Children v. Shinn, 168 Iowa 531, 150 N.W. 864 (1915)
- Caveman Adventures UN, Ltd. v. Press-Citizen Co., 633 N.W.2d 757 (Iowa 2001)
- Taggart v. Drake University, 549 N.W.2d 796 (Iowa 1996)
- New York Times Co. v. Sullivan, 376 U.S. 254 (1964)
- St. Amant v. Thompson, 390 U.S. 727 (1968)
- Fuller v. Local Union No. 106, 567 N.W.2d 419 (Iowa 1997)

- Ette ex rel. Ette v. Linn-Mar Community School District, 656 N.W.2d 62 (Iowa 2002)
- Ollinger v. Bennett, 562 N.W.2d 167 (Iowa 1997)
- Millington v. Kuba, 532 N.W.2d 787 (Iowa 1995)
- Shook v. Crabb, 281 N.W.2d 616 (Iowa 1979)

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