

SUPREME COURT OF TEXAS

New Times, Inc. v. Isaacks

146 S.W.3d 144 (Tex. 2004) · No. 03-0019 · Decided September 3, 2004

SUMMARY

The Supreme Court of Texas held that a satirical newspaper article about a judge and district attorney was protected speech and could not support a defamation claim. Applying First Amendment principles and the reasonable-reader standard, the court concluded that the article could not reasonably be interpreted as stating actual facts about the plaintiffs. The court reversed the court of appeals and rendered judgment that the plaintiffs take nothing.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Jefferson; Justice Schneider
JURISDICTION	Texas
DECIDED	September 3, 2004
DOCKET	03-0019
DISPOSITION	reversed
PROCEDURAL POSTURE	Petition for review from an interlocutory appeal in a libel action. The trial court denied the defendants' motions for summary judgment, and the court of appeals affirmed. The Supreme Court of Texas reversed and rendered judgment that the plaintiffs take nothing.
STANDARD OF REVIEW	Summary judgment is reviewed under the applicable legal standard, and the Supreme Court independently determines whether the movant established entitlement to judgment as a matter of law. In public-figure defamation cases, the court must determine whether the evidence raises a genuine issue of actual malice. Whether a publication is capable of defamatory meaning is initially a question for the court; the publication is construed as a whole from the perspective of an objectively reasonable reader.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	New Times, Inc. d/b/a Dallas Observer, Dallas Observer, L.P., Rose Farley, Julie Lyons, Patrick Williams v. Bruce Isaacks, Darlene A. Whitten

TOPICS

defamation

first amendment

appellate procedure

standard of review

PRACTICE AREAS

defamation

constitutional law

appellate procedure

summary judgment

QUESTIONS PRESENTED

1. Whether the satirical article could reasonably be understood as stating actual facts about Isaacks and Whitten and therefore support a defamation claim.
2. Whether the evidence raised a genuine issue that New Times published the article with actual malice.
3. Whether New Times was liable for attorney's fees and appellate costs awarded under Texas Civil Practice and Remedies Code section 51.015.

HOLDINGS

1. A satirical or parodic publication is not actionable as defamation when, viewed as a whole and in context, it could not reasonably be understood by an objectively reasonable reader as stating actual facts about the plaintiff. The article at issue was protected satire because its improbable content, exaggeration, context, publication venue, prior use of satire, and relation to a public controversy signaled that it was not factual.
2. New Times negated actual malice as a matter of law. For a satirical publication, actual malice asks whether the publisher knew or recklessly disregarded whether the article could reasonably be interpreted as stating actual facts; intent to ridicule, knowledge that the article was fictional, failure to investigate the underlying incident, and hindsight evidence that some readers were misled do not establish actual malice.
3. Because the court reversed the portion of the court of appeals' judgment affirming the trial court's order, the award of appellate attorney's fees and costs to the respondents was also reversed; each party was responsible for its own appellate costs.

KEY QUOTATIONS

"Thus, in such cases, the test is whether the publication could be reasonably understood as describing actual facts." (157)

"Thus, we focus on a single objective inquiry: whether the satire can be reasonably understood as stating actual fact." (158)

"The affidavits establish New Times's lack of actual malice; none of the witnesses knew or had reckless disregard for whether the satire would be taken as stating actual facts, nor is there any evidence that they intended such a result." (165)

FACTUAL BACKGROUND

A thirteen-year-old Texas student was detained after writing a fictional school story describing violence, an incident that received significant publicity. The Dallas Observer published a satirical article portraying a fictional six-year-old girl as detained for writing a book report on *Where the Wild Things Are* and attributing fabricated statements to Judge Darlene Whitten and District Attorney Bruce Isaacks. Isaacks and Whitten claimed the article libeled them, although the Observer identified the article as satire in a subsequent column and explained the joke to readers.

PROCEDURAL HISTORY

Isaacks and Whitten sued New Times and its employees for libel arising from a satirical Dallas Observer article about the officials' handling of a juvenile's arrest. New Times moved for summary judgment, arguing that a reasonable reader would understand the article as satire and that the defendants lacked actual malice. After the trial court denied the motions, the court of appeals affirmed, finding fact issues on whether the article conveyed defamatory facts and whether defendants acted with actual malice. The Supreme Court of Texas granted review, reversed the court of appeals, and rendered judgment for New Times.

DISPOSITION

reversed

CASES CITED

- New York Times Co. v. Sullivan, 376 U.S. 254 (1964)
- Hustler Magazine v. Falwell, 485 U.S. 46 (1988)
- Pring v. Penthouse International, Ltd., 695 F.2d 438 (10th Cir. 1982)
- Turner v. KTRK Television, Inc., 38 S.W.3d 103 (Tex. 2000)
- Greenbelt Cooperative Publishing Ass'n v. Bresler, 398 U.S. 6 (1970)
- Letter Carriers v. Austin, 418 U.S. 264 (1974)
- Milkovich v. Lorain Journal Co., 497 U.S. 1 (1990)
- Bentley v. Bunton, 94 S.W.3d 561 (Tex. 2002)
- Casso v. Brand, 776 S.W.2d 551 (Tex. 1989)
- Carr v. Brasher, 776 S.W.2d 567 (Tex. 1989)
- Forbes, Inc. v. Granada Biosciences, Inc., 124 S.W.3d 167 (Tex. 2003)
- Huckabee v. Time Warner Entertainment Co., 19 S.W.3d 413 (Tex. 2000)
- WFAA-TV, Inc. v. McLemore, 978 S.W.2d 568 (Tex. 1998)
- Falwell v. Flynt, 805 F.2d 484 (4th Cir. 1986)
- Patrick v. Superior Court, 27 Cal. Rptr. 2d 883 (Cal. Ct. App. 1994)
- San Francisco Bay Guardian, Inc. v. Superior Court, 17 Cal. App. 4th 655, 21 Cal. Rptr. 2d 464 (1993)
- Dworkin v. Hustler Magazine, Inc., 867 F.2d 1188 (9th Cir. 1989)
- Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569 (1994)
- Washington National Insurance Co. v. Administrators, 2 F.3d 192 (7th Cir. 1993)

- *Zerangue v. TSP Newspapers, Inc.*, 814 F.2d 1066 (5th Cir. 1987)
- *Cohen v. California*, 403 U.S. 15 (1971)
- *Bose Corp. v. Consumers Union of United States, Inc.*, 466 U.S. 485 (1984)

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