

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Park v. Yoon Young Park

2022 NY Slip Op 05213 (App. Div. 2022) · No. 2019-09751 · Decided September 21, 2022

SUMMARY

The Appellate Division, Second Department affirmed an order granting Korean Channel summary judgment in a defamation action. The court held that the broadcaster was not grossly irresponsible in reporting statements made at a press conference and that portions of the broadcast were not actionable because the plaintiff was not readily identifiable or was referred to only as part of a general class of attorneys.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; Reinaldo E. Rivera, J.; Deborah A. Dowling, J.; Helen Voutsinas, J.
JURISDICTION	New York
DECIDED	September 21, 2022
DOCKET	2019-09751
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiff appealed from an order granting Korean Channel's motion for summary judgment dismissing the defamation complaint insofar as asserted against it.
STANDARD OF REVIEW	The court reviewed the grant of summary judgment to determine whether Korean Channel established its prima facie entitlement to judgment as a matter of law and whether the plaintiff raised a triable issue of fact in opposition.
PRECEDENTIAL VALUE	published appellate decision
PARTIES	I. Andrew Park v. Korean Channel

TOPICS

- defamation
- summary judgment
- standard of review
- appellate procedure
- civil procedure

PRACTICE AREAS

defamation

torts

civil procedure

QUESTIONS PRESENTED

1. Whether Korean Channel could be held liable for defamation only upon proof that it acted in a grossly irresponsible manner because the plaintiff was a private figure and the broadcast concerned a matter within the sphere of legitimate public concern.
2. Whether Korean Channel established prima facie that it was not grossly irresponsible in reporting statements made during the press conference.
3. Whether Korean Channel was required to contact the plaintiff before broadcasting the report.
4. Whether the portion of the broadcast concerning attorneys generally was actionable defamation by the plaintiff.

HOLDINGS

1. A private plaintiff may hold a publisher liable for defamation concerning a matter within the sphere of legitimate public concern only if the publisher acted in a grossly irresponsible manner, without due consideration for ordinarily responsible standards of information gathering and dissemination.
2. Korean Channel established prima facie that it was not grossly irresponsible in reporting statements made during the press conference, and the plaintiff failed to raise a triable issue of fact.
3. Korean Channel was not required to contact the plaintiff before disseminating the broadcast because the person purportedly defamed at the press conference was identified only by initials and was not readily identifiable as the plaintiff.
4. The portion of Korean Channel's broadcast that purported to convey information concerning attorneys generally was not actionable defamation by the plaintiff because it lacked sufficient particulars identifying an individual.

KEY QUOTATIONS

*"The 'standard of 'gross irresponsibility' demands no more than that a publisher utilize methods of verification that are reasonably calculated to produce accurate copy'" (*1)*

FACTUAL BACKGROUND

The plaintiff, an attorney, alleged that he was defamed by a Korean Channel television broadcast concerning pre-settlement loans offered to plaintiffs in personal injury lawsuits. The broadcast reported information provided by Yoon Young Park during a press conference and identified the person discussed only by initials. Korean Channel primarily relied on Park, whom it regarded as a credible and well-regarded source, and followed its information-gathering protocol for press conferences.

PROCEDURAL HISTORY

I. Andrew Park commenced an action for defamation based on a Korean Channel television broadcast reporting statements made by Yoon Young Park at a press conference. The Supreme Court, Queens County, granted Korean Channel's motion for summary judgment dismissing the complaint against it. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Stone v Bloomberg L.P., 163 AD3d 1028, 1029
- Chapadeau v Utica Observer-Dispatch, 38 NY2d 196, 199
- Udell v NYP Holdings, Inc., 169 AD3d 954, 955
- Karaduman v Newsday, Inc., 51 NY2d 531, 549
- Hayt v Newsday, LLC, 176 AD3d 787, 788
- Matovcik v Times Beacon Record Newspapers, 108 AD3d 511, 511
- Rainbow v WPIX, Inc., 179 AD3d 561, 563
- Yellon v Lambert, 289 AD2d 486, 486
- Robare v Plattsburgh Publ. Co., Div. of Ottaway Newspapers, 257 AD2d 892, 893
- Brady v Ottaway Newspapers, 84 AD2d 226, 233
- Three Amigos SJL Rest., Inc. v CBS News Inc., 28 NY3d 82, 86

OPINION

PER CURIAM.

Park v Yoon Young Park (2022 NY Slip Op 05213) Park v Yoon Young Park 2022 NY Slip Op 05213 Decided on September 21, 2022 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on September 21, 2022 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department FRANCESCA E. CONNOLLY, J.P.

REINALDO E. RIVERA DEBORAH A. DOWLING HELEN VOUTSINAS, JJ. 2019-09751 (Index No. 701643/14) [*1]I. Andrew Park, appellant, et al., plaintiff vYoon Young Park, et al., defendants, Korean Channel, respondent. Robert Alan Saasto, Woodbury, NY, for appellant. Richard A. Solomon (Lipsitz Green Scime Cambria, LLP, Buffalo, NY [John A. Collins], of counsel), for respondent.

DECISION & ORDER In an action to recover damages for defamation, the plaintiff I. Andrew Park appeals from an order of the Supreme Court, Queens County (Janice A. Taylor, J.), dated July

5, 2019. The order granted the motion of the defendant Korean Channel for summary judgment dismissing the complaint insofar as asserted against it. ORDERED that the order is affirmed, with costs.

The plaintiff, an attorney, alleged that he was defamed by the defendant Korean Channel's (hereinafter TKC) television broadcast, which reported information that was provided during a press conference by the defendant Yoon Young Park (hereinafter Park). TKC moved for summary judgment dismissing the complaint insofar as asserted against it, contending, *inter alia*, that its reporting of the press conference was not grossly irresponsible.

In an order dated July 5, 2019, the Supreme Court granted TKC's motion. The plaintiff appeals. TKC could only be held liable for defamation if it acted in a grossly irresponsible manner, without due consideration for the standards of information gathering and dissemination ordinarily followed by responsible parties (see *Stone v Bloomberg L.P.*, 163 AD3d 1028, 1029).

This is because the plaintiff is a private figure, and it is undisputed that the broadcast, which concerned pre-settlement loans offered to plaintiffs in personal injury lawsuits, was within the sphere of legitimate public concern (see *Chapadeau v Utica Observer-Dispatch*, 38 NY2d 196, 199; *Udell v NYP Holdings, Inc.*, 169 AD3d 954, 955).

The "standard of 'gross irresponsibility' demands no more than that a publisher utilize methods of verification that are reasonably calculated to produce accurate copy" (*Karaduman v Newsday, Inc.*, 51 NY2d 531, 549; see *Hayt v Newsday, LLC*, 176 AD3d 787, 788; *Matovcik v Times Beacon Record Newspapers*, 108 AD3d 511, 511).

Here, TKC established, *prima facie*, that it was not grossly irresponsible in reporting statements made during the press conference. The record indicates that the broadcast comported with TKC's protocol for information gathering during a press conference (see *Hayt v Newsday, LLC*, 176 AD3d at 788).

In particular, TKC's broadcast primarily relied on Park, whom TKC viewed as a well regarded "public figure" affiliated with an organization that promoted matters of import to the Korean-American community, and who was a credible source of information, and one whom TKC had relied upon multiple times in the past (see *Rainbow v WPIX, Inc.*, 179 AD3d 561, 563; *Yellon [*2]v Lambert*, 289 AD2d 486, 486; *Robare v Plattsburgh Publ.*

Co., Div. of Ottaway Newspapers, 257 AD2d 892, 893). Contrary to the plaintiff's contention, there was no basis in the record to find either that TKC was aware that Park's statements were probably false, or that TKC had some reason to doubt the accuracy of Park's statements (see *Hayt v Newsday, LLC*, 176 AD3d at 788).

In addition, there is no merit to the plaintiff's contention that TKC should have contacted him prior to disseminating its broadcast, since the individual purportedly defamed at the press conference was identified only by initials, and thus the plaintiff was not readily identifiable as that individual (see *Rainbow v WPIX, Inc.*, 179 AD3d at 562; *Robare v Plattsburgh Publ.*

Co., Div. of Ottaway Newspapers, 257 AD2d at 893). The plaintiff's claim that the last portion of TKC's broadcast distorted Park's statements, and thereby defamed the plaintiff even further, is without merit. TKC established, prima facie, that the information was obtained during the course of the press conference, and was not contrived by TKC.

In addition, TKC is correct that the last portion of its broadcast is not actionable as defamation by the plaintiff since it purported to convey information concerning attorneys generally, and failed to include "sufficient particulars of identification to be actionable by an individual" (*Brady v Ottaway Newspapers*, 84 AD2d 226, 233; see *Three Amigos SJL Rest., Inc. v CBS News Inc.*, 28 NY3d 82, 86).

In opposition to TKC's prima facie showing, the plaintiff failed to raise a triable issue of fact (see *Matovcik v Times Beacon Record Newspapers*, 108 AD3d at 512). The plaintiff's remaining contention is without merit. CONNOLLY, J.P., RIVERA, DOWLING and VOUTSINAS, JJ., concur. ENTER: Maria T. Fasulo Clerk of the Court