

COURT OF APPEALS OF NORTH CAROLINA

Williams v. Rutherford Freight Lines, Inc., 10 N.C. App. 384

179 S.E.2d 319 (1971) · No. No. 7121SC3 · Decided February 24, 1971

SUMMARY

The North Carolina Court of Appeals held that statements characterizing plaintiffs as “gangsters” in the context of a labor dispute were actionable only per quod, requiring pleading and proof of special pecuniary damages. The court further held that emotional distress and mental suffering were insufficient special damages, and that later supplemental pleadings could not relate back where no actionable damages existed when the original complaints were filed and the limitation period had expired. The judgments were affirmed.

CASE DETAILS

COURT	Court of Appeals of North Carolina
WRITING FOR THE COURT	Graham, Judge; Mallard, C.J.; Parker, Judge
JURISDICTION	North Carolina
DECIDED	February 24, 1971
DOCKET	No. 7121SC3
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from trial-court rulings sustaining defendants' statute-of-limitations defense and determining that the defamation claims could not proceed without timely pleaded special damages.
STANDARD OF REVIEW	De novo review of the legal sufficiency of the defamation pleadings and application of the statute of limitations.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Eugene K. Williams, James M. Willard v. Rutherford Freight Lines, Inc., Lester L. Wofford

TOPICS

- defamation
- statute of limitations
- pleadings
- civil procedure
- labor law

PRACTICE AREAS

- defamation
- civil procedure
- statute of limitations
- labor law

QUESTIONS PRESENTED

1. Whether defendants' alleged characterization of plaintiffs as "gangsters" was actionable per se because it charged plaintiffs with a crime.
2. Whether the alleged statements were actionable per se as an impeachment of plaintiffs' trade or occupation.
3. Whether emotional distress and mental suffering constituted special damages for defamation actionable only per quod.
4. Whether special damages first alleged in later pleadings could relate back to the original complaints under North Carolina Rule of Civil Procedure 15(c).
5. Whether a defamation action actionable only upon the occurrence of special damage may be maintained when no actionable special damage existed when the action was instituted and the damage occurred after the limitations period expired.

HOLDINGS

1. Calling plaintiffs "gangsters" did not charge them with a specific punishable crime and therefore was not actionable per se.
2. The alleged characterization of plaintiffs as "gangsters" was not actionable per se as an impeachment of their business or occupation.
3. When allegedly false statements are actionable only per quod, the plaintiff must plead and prove special damages, and special damages mean pecuniary loss rather than humiliation or emotional suffering.
4. The later pleadings could not relate back to the original complaints because the plaintiffs had no actionable special damages when the suits were instituted and the claims did not become actionable within the applicable limitations period.
5. The statute of limitations barred the claims because the alleged statements were made in April 1963, the applicable slander limitations period was six months, and the alleged special damages occurred only after that period had expired.

KEY QUOTATIONS

"Where false statements are actionable only per quod, some special damage must be pleaded and proved." (at 322)

"The language, especially under the circumstances here alleged, was nothing more than vituperation or name calling arising out of a dispute over a labor grievance." (at 323)

"To hold that plaintiffs' later pleadings relate back to the time the original complaints were filed would be to extend the statute of limitations indefinitely in defamation cases which are actionable only per quod." (at 325)

FACTUAL BACKGROUND

During a labor dispute involving the plaintiffs, defendants allegedly characterized plaintiffs as "gangsters." Plaintiffs were truck drivers and union leaders and contended that the statements charged them with a crime and

injured them in their occupations. The original complaints did not allege special damages, while later pleadings alleged that Williams lost a union election and employment and that Willard lost employment. Those losses occurred more than six months after the original complaints were filed and were alleged only after the applicable limitations period had expired.

PROCEDURAL HISTORY

Plaintiffs filed original complaints on April 26, 1963, alleging that defendants made defamatory statements during a labor dispute. The original complaints did not plead special damages. Plaintiffs later filed pleadings designated as amended complaints alleging lost employment and loss of a union election as special damages. The trial court held that the claims were actionable only per quod, that the alleged special damages were not timely pleaded or incurred, and that the statute of limitations barred the claims. The Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Penner v. Elliott, 225 N.C. 33, 33 S.E.2d 124 (1945)
- Scott v. Harrison, 215 N.C. 427, 2 S.E.2d 1 (1939)
- Payne v. Thomas, 176 N.C. 401, 97 S.E. 212 (1918)
- Flake v. News Co., 212 N.C. 780, 195 S.E. 55 (1938)
- Oates v. Trust Co., 205 N.C. 14, 169 S.E. 869 (1933)
- Ringgold v. Land, 212 N.C. 369, 193 S.E. 267 (1937)
- Deese v. Collins, 191 N.C. 749, 133 S.E. 92 (1926)
- Beane v. Weiman Co., Inc., 5 N.C. App. 276, 168 S.E.2d 236 (1969)
- Bouligny, Inc. v. Steelworkers, 270 N.C. 160, 154 S.E.2d 344 (1967)
- Badame v. Lampke, 242 N.C. 755, 89 S.E.2d 466 (1955)
- Crawford v. Barnes, 118 N.C. 912, 24 S.E. 670 (1896)
- Bynum v. Commissioners, 101 N.C. 412, 8 S.E. 136 (1888)
- United States v. Russell, 241 F.2d 879 (1st Cir. 1957)
- Dewey v. Clark, 61 A.2d 475 (D.C. Mun. App. 1948)
- Security Insurance Co. of New Haven v. United States, 338 F.2d 444 (9th Cir. 1964)
- United States for Use of Atkins v. Reiten, 313 F.2d 673 (9th Cir. 1963)
- Linn v. Plant Guard Workers, 383 U.S. 53, 86 S. Ct. 657, 15 L. Ed. 2d 582 (1966)