

SUPREME COURT OF OHIO

Welling v. Weinfeld

113 Ohio St. 3d 464 (Ohio 2007) · Decided June 6, 2007

SUMMARY

The Ohio Supreme Court recognized false-light invasion of privacy as an actionable tort under Ohio law and adopted the elements stated in Restatement (Second) of Torts § 652E. The court held that liability requires publicity placing another in a false light that would be highly offensive to a reasonable person, coupled with knowledge of or reckless disregard for the falsity and resulting false light. The court reversed the court of appeals and remanded the case.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Pfeifer, J.; Moyer, C.J.; Sweeney, J.; Lundberg Stratton, J.; O'Donnell, J.; O'Connor, J.; Lanzinger, J.
JURISDICTION	Ohio
DECIDED	June 6, 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Wellings appealed after the Fifth District Court of Appeals declined to decide whether Ohio recognizes false-light invasion of privacy. The Supreme Court of Ohio accepted the Wellings' discretionary appeal to resolve that legal issue.
PRECEDENTIAL VALUE	Published, precedential Ohio Supreme Court decision establishing false-light invasion of privacy as an actionable tort in Ohio.
PARTIES	Robert Welling, Katherine Welling v. Lauri Weinfeld

TOPICS

- invasion of privacy
- torts
- punitive damages
- remedies

PRACTICE AREAS

- Torts
- Privacy law
- Remedies

QUESTIONS PRESENTED

- Whether Ohio recognizes a cause of action for false-light invasion of privacy.

2. If recognized, what elements govern a false-light invasion-of-privacy claim in Ohio.

HOLDINGS

1. Ohio recognizes false-light invasion of privacy as a distinct, actionable tort.
2. In Ohio, a false-light claim requires publicity placing another before the public in a false light that would be highly offensive to a reasonable person, together with knowledge of or reckless disregard for the falsity of the publicized matter and the false light in which the other would be placed.

KEY QUOTATIONS

“From neighborhood friction that spiraled into dueling litigation has emerged a significant question for this court: Does Ohio recognize the “false light” theory of the tort of invasion of privacy? Today we recognize that theory of recovery.” (at 465)

“We therefore recognize the tort of false-light invasion of privacy and adopt Restatement of the Law 2d, Torts, Section 652E.” (at 473)

“In Ohio, one who gives publicity to a matter concerning another that places the other before the public in a false light is subject to liability to the other for invasion of his privacy if (a) the false light in which the other was placed would be highly offensive to a reasonable person, and (b) the actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.” (at 473)

FACTUAL BACKGROUND

The Wellings lived next to Weinfeld's party center, and the neighbors engaged in ongoing disputes concerning activities on their respective properties. After a rock was thrown through a window at the party center, Weinfeld distributed handbills offering a reward for information leading to the perpetrator's conviction, despite admitting that she had no proof the Wellings were responsible. The handbills were distributed at a Pepsi bottling plant where Robert Welling and his son worked and at the school attended by the Welling children. A jury found that Weinfeld invaded the Wellings' privacy and awarded damages.

PROCEDURAL HISTORY

The Wellings counterclaimed for invasion of privacy after Weinfeld distributed handbills seeking information about a vandalism incident and allegedly publicized the Wellings as responsible without proof. A jury found for the Wellings and awarded compensatory and punitive damages. The trial court denied judgment notwithstanding the verdict, remitted the punitive damages subject to acceptance, and ordered a new trial when the Wellings rejected the remittitur. The court of appeals limited the retrial to an intrusion-upon-seclusion theory and did not decide the false-light issue. The Supreme Court of Ohio reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded to the lower court for further proceedings consistent with recognition of the false-light theory; the opinion does not provide more specific instructions.

CASES CITED

- Housh v. Peth, 165 Ohio St. 35, 133 N.E.2d 340 (1956)
- Sustin v. Fee, 69 Ohio St. 2d 143, 431 N.E.2d 992 (1982)
- Yeager v. Local Union 20, Teamsters, Chauffeurs, Warehousemen & Helpers of Am., 6 Ohio St. 3d 369, 453 N.E.2d 666 (1983)
- M.J. DiCorpo, Inc. v. Sweeney, 69 Ohio St. 3d 497, 634 N.E.2d 203 (1994)
- West v. Media Gen. Convergence, Inc., 53 S.W.3d 640 (Tenn. 2001)
- Denver Publishing Co. v. Bueno, 54 P.3d 893 (Colo. 2002)
- Crump v. Beckley Newspapers, Inc., 173 W. Va. 699, 320 S.E.2d 70 (1984)
- Cantrell v. Forest City Publishing Co., 419 U.S. 245 (1974)
- Spahn v. Julian Messner, Inc., 18 N.Y.2d 324, 221 N.E.2d 543 (1966)
- Cain v. Hearst Corp., 878 S.W.2d 577 (Tex. 1994)
- Lake v. Wal-Mart Stores, Inc., 582 N.W.2d 231 (Minn. 1998)
- Renwick v. News & Observer Publishing Co., 310 N.C. 312, 312 S.E.2d 405 (1984)