



DENNIS C. SUTTERFIELD

CIRCUIT JUDGE
FIFTH JUDICIAL DISTRICT
P.O. BOX 249
POPE COUNTY COURTHOUSE
RUSSELLVILLE, ARKANSAS 72811

MICHELE L. MATTHEWS
TRIAL ASSISTANT

WILLMA VAUGHN
COURT REPORTER

FAX
(479) 967-6070

TELEPHONE
(479) 967-5011
EMAIL: judgedca@yahoo.com

COUNTIES
POPE
FRANKLIN
JOHNSON

November 19, 2007

Mr. H. Clay Moore
Attorney at Law
713-523-0140

Mr. R. David Lewis
Attorney at Law
501-664-3884

Mr. John E. Tull, III
Attorney at Law
501-379-1701

RE: Ryan Whiteside v. Russellville Newspapers, Inc., et al
Pope County Circuit Court No. CV-2007-47

Gentlemen:

The following is a copy of an Order that has been filed in the above-captioned case.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michele Matthews".

Michele L. Matthews
Trial Assistant

Enclosure

cc: court file

IN THE CIRCUIT COURT OF POPE COUNTY, ARKANSAS
DIVISION IV

RYAN WHITESIDE

PLAINTIFF

VS.

No CV-2007-47

RUSSELLVILLE NEWSPAPERS, INC.,
PAXTON MEDIA GROUP, LLC,
NEAL RONQUIST, SCOTT PERKINS,
and JANIE GINOCCHIO

**ORDER GRANTING MOTION FOR SUMMARY JUDGMENT
AND DISMISSING PLAINTIFF'S COMPLAINT WITH PREJUDICE**

A hearing was held on Friday, November 16, 2007 in the above referenced case on the defendants' Motion for Summary Judgment in the above referenced case. At the conclusion of the hearing, the court took the matter under advisement. The court now enters its order:

Arkansas Rules of Civil Procedure 56 sets out the standard that guides this court in its consideration of the defendants' Motion for Summary Judgment. Pursuant to Rule 56 a "judgment shall be rendered shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law on the issues specifically set forth in the motion."

This court first addresses the issue of whether or not there exists any genuine issue as to material fact in this case which would prevent the entry of a judgment in this matter at this time. In doing so, this court must first consider the fair-report privilege raised by the defendants specifically and whether or not there is any genuine issue of material fact existing as to the assertion of this

FILED
CIRCUIT & COUNTY CLERK
2007 NOV 19 PM 1:19

privilege. If the defendants can successfully claim the fair-report privilege then neither the legal status of the plaintiff as a private or public person nor whether malice exists matters, and all other issues raised by the motion become moot.

There is no factual dispute that the plaintiff's cause of action is based upon newspaper articles published on January 11, 2007 and January 15, 2007. The contents of those written publications plainly are not in dispute. There is no factual dispute that the January 11, 2007 newspaper story was based upon a December 31, 2006 police report, witness statements and documents generated by the Russellville Police Department. The contents of the Police Department documents are not in dispute.

There is no factual dispute as to the contents of the January 15, 2007 article or that it was based upon the December 31, 2006 police report and documents of the Russellville Police Department and a January 12, 2007 letter from Prosecuting Attorney David Gibbons. There is no factual dispute as to the contents of the January 12, 2007 letter.

Therefore, this court finds that there are not disputes regarding any material facts as regards to the issue of whether or not the defendants in this case are entitled the benefit of the fair-report privilege. It only remains for this court to apply the law to these uncontested facts. The articles speak for themselves and so does the police report, documents and prosecuting attorney's letter.

First, the court would state that the uncontested facts establish that the police report, witness statements and prosecutor's letter, upon which the defendants rely, are official public documents.

There is no dispute that the police report was generated by the Russellville Police Department in the course of an official police investigation and that it was voluntarily and legally released for public consumption when it released the report and statements therein to the defendants. There is also no dispute that the letter of Prosecuting Attorney, David Gibbons, is an official public document voluntarily and legally released for public consumption.

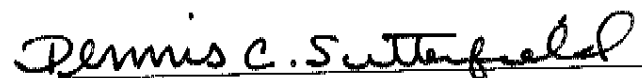
The legal question that remains is whether or not the Courier's publications convey a substantially correct account of the Russellville Police Department Report and the prosecutor's letter. This court finds that they do. It is not necessary that the report be exhaustive and complete, but it is necessary that nothing be omitted or misplaced in such a manner as to convey an erroneous impression.

In testing the accuracy of the reporting under the fair-report privilege, this court is required to apply "the substantial truth doctrine" recognized in the case of Pritchard v. Times Southwest Broadcasting, Inc., 458, 642 S.W.2d 877 (1982). Under that doctrine, the literal truth is not necessary and substantial truth, sometimes referred to as the "gist" or the "sting", will suffice. In other words, under the fair-report privilege, the gist of the "sting" of an official action or proceeding must be accurately conveyed in the publication.

The court finds that the publications at issue in this case were a fair and substantially true account of the police report, police documents and prosecutor's report and that there is no showing of that these publications stated any untruths outside that context. The police reports, statements and other documents may contain untruths, but as long as the defendants gave a substantially fair account of the contents of those documents then they are not liable under the fair-report privilege doctrine.

Therefore the court grants the defendants' Motion for Summary Judgment and dismisses the plaintiff's complaint with prejudice.

IT IS SO ORDERED.


DENNIS C. SUTTERFIELD
CIRCUIT JUDGE
DATE: November 19, 2007

Copy To:

Mr. H. Clay Moore
Attorney at Law
713-523-0140

Mr. R. David Lewis
Attorney at Law
501-664-3884

Mr. John E. Tull, III
Attorney at Law
501-379-1701