

STATE OF MICHIGAN  
COURT OF APPEALS

---

J. ALAN ROBERTSON, D.C., M.D.,

Plaintiff-Appellant,

v

GARY W. CONANT, D.C. and,

Defendant-Appellees.

---

UNPUBLISHED

September 17, 1996

No. 174512

LC No. 93-306209

Before: Marilyn Kelly, P.J., and Gribbs and W. E. Collette,\* JJ.

PER CURIAM.

Plaintiff appeals the circuit court's grant of directed verdict for defendants in this defamation and invasion of privacy action. We affirm.

The trial court did not err in finding that directed verdict was appropriate where plaintiff himself published the allegedly defamatory statement. A plaintiff cannot recover when he repeats or communicates the defamatory statement to a third party. *Konkle v Haven*, 140 Mich 472, 476;103 NW 850 (1905); *Shinglemeyer v Wright*, 124 Mich 230, 240; 82 NW 887 (1900); Restatement Torts, Second, §577, comment m. Here, plaintiff was clearly aware of the defamatory nature of the matter when he published it to a third party, and we are not persuaded that *Grist v The Upjohn Co*, 16 Mich App 452; 168 NW2d 389 (1969), applies in this case.

Although the facts of *Grist* are not entirely clear, it appears that the plaintiff was required to publish defamatory information to prospective employers in order to defend herself against the defamatory statements that had already been published by supervisory coemployees and the personnel department of defendant company. See *Grist v The Upjohn Co*, 368 Mich 578; 118 NW2d 985 (1962). In this case, the defamatory information had not, in fact, been published and plaintiff was not required to defend charges against him. Accordingly, we do not believe the narrow exception carved out in *Grist* applies in this case and, under the general rule against self publication, directed verdict was properly granted.

---

\* Circuit judge, sitting on the Court of Appeals by assignment.

The trial court did not err in granting directed verdict on plaintiff's claim for false light invasion of privacy. *Early Detection v N Y Life*, 157 Mich App 618, 630; 403 NW2d 830 (1986). There was not sufficient publication in this case to support plaintiff's claim. This is not a case like *Beaumont v Brown*, 401 Mich 80, 102, 104-105; 257 NW2d 522 (1977), where the defamatory material was "sure to be circulated."

In light of our decision that remand is not necessary in this case, we need not address plaintiff's argument that this matter should be remanded to a different judge.

Affirmed.

/s/ Marilyn Kelly

/s/ Roman S. Gibbs

/s/ William E. Collette