

STATE OF MICHIGAN
COURT OF APPEALS

DANIEL R. BURBEULA,

Plaintiff-Appellant,

v

LAURA BAILEY and INDEPENDENT
NEWSPAPERS, INC.,

Defendants-Appellees.

UNPUBLISHED
September 7, 1999

No. 204386
Macomb Circuit Court
LC No. 96-006588 NO

Before: Markman, P.J., and Saad and P.D. Houk,* JJ.

PER CURIAM.

Plaintiff appeals by right from the trial court order granting summary disposition in favor of defendants, pursuant to MCR 2.116(C)(10), in this defamation action. We affirm. This appeal is being decided pursuant to MCR 7.214(E).

This defamation action arises out of defendants' newspaper reports regarding the January 17, 1995 decision of the Chesterfield Township Board, by a four to three majority vote, to terminate plaintiff as the township's police chief. The newspaper articles in question reported that the board cited "managerial shortcomings" or "inept management" as the reason for plaintiff's termination. Plaintiff argues that genuine issues of material fact exist as to whether the reports are substantially true. We disagree.

All three of the board members in the four-member majority who gave remarks at the January 17, 1995 board meeting regarding the decision to terminate offered reasons that may be accurately characterized as "managerial shortcomings," even though some of the members described the managerial deficit only in terms of needing "fresh ideas" and a "new approach." As for the newspaper's subsequent use of the term "inept management" to describe the stated reason for the board's action, that term appears to accurately describe the comments of Jan Uglis at the January 17, 1995 meeting, at which time Uglis characterized plaintiff's management of the police department as "a problem." Moreover, by the time the newspaper began using the reference to "inept management," all

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

of the members of the four-member majority had testified that they did indeed vote to terminate plaintiff as police chief because of problems with plaintiff's management of the police department.

Under the substantial truth doctrine, the test to determine material falsity is whether the evidence supports a finding that the "sting" or "gist" of statements would have had a different effect upon the mind of the reader than the literal truth. *Rouch v Enquirer & News of Battle Creek (After Remand)*, 440 Mich 238, 258-259; 487 NW2d 205 (1992); *Koniak v Heritage Newspapers (On Remand)*, 198 Mich App 577, 579-580; 499 NW2d 346 (1993). Here, the "gist" or "sting" of the statements in question is that board member Uglis' stated views that plaintiff's management of the police department was a problem reflected the views of the majority of the board voting to terminate. Because the newspaper accounts characterized Uglis' remarks with substantial accuracy, and because the deposition testimony from the other members of the majority indicates that majority did in fact share the views expressed by Uglis at the January 17, 1995 meeting, the trial court correctly concluded that the substance or gist of the articles is substantially accurate.

Affirmed.

/s/ Stephen J. Markman
/s/ Henry William Saad
/s/ Peter D. Houk