

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WILLIAMS COUNTY

Albert J. Tajblik

Appellant

Court of Appeals No. WM-11-014

Trial Court No. 10 CI 361

v.

Jim Dennis, et al.

Appellees

DECISION AND JUDGMENT

Decided: December 31, 2012

* * * * *

John P. Goldenetz, for appellant.

Timothy T. Reid, Edward O. Patton, and Meghan B. Kilbane,
for appellees.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Williams County Court of Common Pleas that granted appellees' motion for summary judgment on appellant's complaint alleging physical, emotional and psychological damage as a result of the

actions of appellees. For the reasons that follow, the judgment of the trial court is affirmed.

{¶ 2} Appellant, Albert J. Tajblik, was placed at the Corrections Center of Northwest Ohio (“CCNO”) in December 2008 as a pretrial defendant arising out of felony charges brought against him in Henry County, Ohio. Although initially charged with seven offenses, appellant subsequently pled to one count of domestic violence and one count of abduction and was convicted of both counts. The remaining counts were dismissed. Appellant remained at CCNO pending transfer to the Ohio Department of Rehabilitation and Corrections (“ODRC”). On April 23, 2009, prior to appellant’s transport to ODRC, a corrections officer handed him a document labeled “Duties to Register as a Sex Offender” and told him to sign the form. Presenting the document to inmates who are classified as sex offenders for their signature is CCNO policy. Although appellant responded that he was not a sex offender, the official insisted that he sign the document and appellant did so. The record reflects that appellant’s indictment originally contained one count of kidnapping, which under some circumstances is a sex offense under Ohio law. The kidnapping count was dismissed, however, when appellant entered his plea. Neither of the charges of which appellant was convicted required him to be classified as a sex offender. It is undisputed that the kidnapping count was never amended to abduction in the CCNO system by the corrections officer charged with logging prisoners’ convictions; this omission led to appellant’s being instructed to sign the document.

{¶ 3} Appellant was taken by bus to ODRC in Orient, Ohio; the Duties to Register document apparently traveled with appellant. According to appellant, the next time he saw the document was when he was in a holding cell with approximately 30 other inmates who passed the paper around before handing it to appellant and calling him a sex offender. It is undisputed that at no time did CCNO or its staff publish the document for others to review; when the document was presented to appellant to sign, it was done so privately. Appellant testified at deposition that as soon as he was able, he mailed the document to his wife. He stated that his family refused to talk to him while he was in prison because the document “added to the fire.”

{¶ 4} On December 20, 2010, appellant filed a complaint in the Williams County Court of Common Pleas against Jim Dennis, Executive Director of CCNO, the CCNO, and the Corrections Commission of Northwest Ohio. Appellant alleged that on April 23, 2009, he was incorrectly classified as a sex offender when he was told to sign the Duties to Register document while he was still at CCNO. Appellant further alleged that the conduct of the defendants constituted negligence and that, as a result of the inappropriate classification, he suffered severe beatings and attempted rape and was subjected to insult and name-calling, as well as threats of rape, dismemberment and death. Appellees filed a timely answer and, on August 18, 2011, filed a motion for summary judgment alleging, inter alia, that appellant’s claims were time-barred by the one-year statute of limitation for libel, slander and defamation claims pursuant to R.C. 2305.11(A). On November 14, 2011, the trial court granted summary judgment in favor of appellees. In so doing, the

trial court found that although appellant used the term “negligence” in his complaint, the basis of his complaint was that defendants caused others to believe he was a sex offender when he was not, and therefore sounded in libel, slander or defamation. The trial court concluded that the one-year statute of limitation set forth in R.C. 2305.11(A) governs appellant’s claims for relief and that his claims were time-barred because he failed to pursue his claim within one year from the date of the alleged improper conduct.

{¶ 5} On appeal, appellant sets forth the following assignment of error:

I. The trial court erred in dismissing the complaint of plaintiff on the basis that it was time-barred by the statute of limitations.

{¶ 6} Appellate review of summary judgment determinations is conducted on a de novo basis, applying the same standard utilized by the trial court. *Lorain Nat’l. Bank v. Saratoga Apts.*, 61 Ohio App.3d 127, 572 N.E.2d 198 (9th Dist.1989); *Grafton v. Ohio Edison Co.*, 77 Ohio St.3d 102, 105, 671 N.E.2d 241 (1996). Summary judgment shall be granted when there remains no genuine issue of material fact and, when considering the evidence most strongly in favor of the non-moving party, reasonable minds can only conclude that the moving party is entitled to judgment as a matter of law. Civ.R. 56(C).

{¶ 7} As the relevant facts are not in dispute, the sole issue before this court is whether appellant’s complaint is time-barred by the applicable statute of limitation. Therefore, we must first determine whether appellant’s complaint set forth a claim of negligence, as he argues, which would have allowed him two years from the date of the

alleged improper conduct to pursue his claim, or whether his complaint set forth a claim of libel, which would be subject to a one-year statute of limitation.

{¶ 8} Appellant claims publication of the false notice to register harmed his reputation and caused him to suffer hatred, contempt and ridicule. The Supreme Court of Ohio has defined the tort of libel as “a false written publication made with some degree of fault, reflecting injuriously on a person’s reputation, or exposing a person to public hatred, contempt, ridicule, shame or disgrace, or affecting a person adversely in his or her trade, business, or profession.” *A & B-Abell Elevator Co. v. Columbus/Cent. Ohio Bldg. & Constr. Trades Council*, 73 Ohio St.3d 1, 7, 651 N.E.2d 1283 (1995).

{¶ 9} R.C. 2305.11(A) states that “an action for libel [or] slander * * * shall be commenced within one year after the cause of action accrued.” As set forth above, the alleged improper conduct—that is, publication of the document in the holding cell at ODRC—occurred on April 29, 2009. Appellant did not file his complaint until almost 20 months later, on December 20, 2010.

{¶ 10} Upon consideration of the complaint, as well as appellant’s deposition testimony, we find that the trial court’s analysis was correct. Appellant insists that his relationship with several family members suffered for several years after they erroneously thought he had been classified as a sex offender. Appellant attributes verbal and physical abuse he suffered from fellow inmates to their having seen the notice to register as a sex offender when he arrived at ODRC. We conclude that appellant’s complaint clearly was brought to seek redress for injury to his reputation, as appellant

alleges that the false written publication exposed him to public hatred, contempt and ridicule. Therefore, we find that appellant's complaint sounded in libel and was therefore subject to a one-year statute of limitation. Accordingly, the trial court did not err by granting summary judgment in favor of appellees. Appellant's sole assignment of error is not well-taken.

{¶ 11} On consideration whereof, the judgment of the Williams County Court of Common Pleas is affirmed. Costs of this appeal are assessed to appellant pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.</p>
