

Jeannette Belliveau

*

IN THE CIRCUIT COURT

v.

*

FOR BALTIMORE CITY

Stephanie Akker

*

CASE: 24 C 19 001421

MEMORANDUM AND JUDGEMENT

This matter came before the Court as a *de novo* appeal from a District Court's verdict favorable to the Plaintiff's defamation complaint filed against the Defendant. The dispute arose when the Defendant Stephanie Akker (Akker) stayed for a period of days/nights at a residence owned/operated by the Plaintiff Jeannette Belliveau; a room booked through Airbnb. According to Akker, during her stay, she espied sitting loose in a receptacle in Belliveau's facility what appeared to her to be a 9 millimeter handgun. Akker testified that she has had from an early age a familiarity with guns to the extent that at one point in her life she had a permit to carry a firearm on her person. Akker further testified that at some point in her stay at Belliveau's place, she actually touched the firearm and in doing so found that it was metal. On the basis of her experience with and touching the weapon, Akker absolutely believed that what she saw and touched was an authentic firearm. After she checked-out, she felt concern that a child might suffer harm from that weapon, and contacted Airbnb who apparently counseled her to leave a review voicing her concern. Once she did so, Airbnb then struck Belliveau's place from their search software, effectively de-listing Belliveau from any enquiry made by potential future customers. This of course caused a significant loss in income for Belliveau.

Per Belliveau, there was in fact no firearm present at her place of business. There was however a rubber facsimile of a semi-automatic handgun, which she uses to instruct her temporary tenants how to react if confronted on the streets of Baltimore by an individual wielding one. Belliveau did indeed bring to court a facsimile rubber firearm, and it was that facsimile that Akker in fact saw, and in error reported to the world that it was authentic. The gravamen of Belliveau's complaint is that Akker made/published a false statement that has resulted in dire financial consequence for Belliveau.

This situation is most unfortunate, as just a little bit of communication between the parties might have easily defused the situation at its incipency.

Instead, we have a situation where one party has demonstrable financial losses, and the other party had to travel from Massachusetts to defend this action. However, as there is no cognizable tort for a failure to communicate, I turn instead to the elements of the tort averred, to wit: defamation.

In that regard, I start by observing that in presenting testimony, both parties appeared intelligent, articulate and credible. I did not detect a scintilla of disingenuousness in the presentation of evidence from either party.

In order to succeed in this litigation, the Plaintiff must prove by a preponderance of the evidence (among other elements) that a) the Defendant made/published a false statement to a third party, and b) the false statement was negligently made. *Jacron Sales Co. v. Sindorf*, 276 Md. 580 (1976). Phrased another way, assuming *arguendo* that what Akker saw was a rubber facsimile of a gun and not a real firearm, in order to find for the Plaintiff, I would have to find by a preponderance of the evidence that Akker's statement about the nature of the firearm was made with a negligent disregard for the truth. That, I cannot conclude.

As outlined above, I found both parties' testimony credible. In regard to Akker it was uncontroverted that she had extensive experience with firearms. Further, she credibly testified that she actually touched the firearm and it felt to her as though it was made of metal. Whether she was wrong or not in her conclusion that the firearm was real, it was an informed conclusion, and not one negligently drawn.

Accordingly, because the Plaintiff has not satisfied this Court by a preponderance of evidence that a defamation occurred, JUDGMENT IS FOR THE DEFENDANT.

6/12/2019
Date

ORIGINAL SIGNED BY THE
HONORABLE PHILIP JACKSON

Philip S. Jackson, Judge
Circuit Court for Baltimore City

TRUE COPY
TEST

Marilyn Bentley

6/12/19 KNB

MARILYN BENTLEY, CLERK



CIRCUIT COURT FOR BALTIMORE CITY

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June 19, 2019

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