

IN THE COURT OF COMMON PLEAS

LAKE COUNTY, OHIO

FILED

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MAUREEN G. KELLY
LAKE CO. CLERK OF COURT

BRYAN ANTHONY REO)

Plaintiff,)

vs.)

MARTIN LINDSTEDT, et al.)

Defendants.)

CASE NOS. 16 CV 000825
15 CV 001590

OPINION AND JUDGMENT ENTRY

This matter is before the court to address defendant Martin Lindstedt’s motion for reconsideration of this court’s judgment entry dated September 25, 2019 denying his motion to set aside the jury verdict and enter judgment in his favor or in the alternative for a new trial. Lindstedt’s motion for reconsideration is well taken and is granted. This court’s judgment entry dated September 25, 2019 is vacated. At issue is whether Lindstedt is entitled to judgment notwithstanding the verdict pursuant to Civ.R. 50(B) or a new trial pursuant to Civ.R. 59(B).

Both cases arose after Reo and Lindstedt engaged in highly disparaging comments about each other on various internet sites. The parties had strong personal opinions and as the conflict developed, they became heated opponents. The parties participated in extended motion practice. In June 2019, a jury awarded Reo on his claim of defamation per se \$40,000 in compensatory damages and \$50,000 in punitive damages. On his claim for invasion of privacy - false light, the jury awarded Reo \$15,000 in compensatory damages. In his motion for judgment notwithstanding the verdict (JNOV) and in the alternative for a new trial, Lindstedt claims: (1) the court had no jurisdiction to hear the case; (2) the statute of limitations had expired on Reo’s claims of defamation and invasion of privacy; (3) Reo was a limited purpose public figure with respect to Reo’s claim for defamation; (4) Lindstedt was improperly barred from presenting evidence; and (5) the jury was stacked against Lindstedt.

Lindstedt’s motion for JNOV pursuant to Civ.R. 50(B) will be addressed first. In *Posin v. A.B.C. Motor Court Hotel*, 45 Ohio St.2d, 271, 275, 344 N.E.2d 334 (1976) the Ohio Supreme Court outlined the trial court’s task in ruling on a motion for JNOV pursuant to Civ.R. 50(B) as follows:

The test to be applied by a trial court in ruling on a motion for judgment notwithstanding the verdict is the same test to be applied on a motion for a directed ver-

dict. The evidence adduced at trial and the facts established by admissions in the pleadings and in the record must be construed most strongly in favor of the party against whom the motion is made, and, where there is substantial evidence to support his side of the case, upon which reasonable minds may reach different conclusions, the motion must be denied. Neither the weight of the evidence nor the credibility of the witnesses is for the court's determination in ruling upon either of the above motions.

See, also, *Jack F. Neff Sand & Gravel, Inc. v. Great Lakes Crushing, Ltd.*, 11th Dist. Lake No. 2012-L-145, 2014-Ohio-2875, ¶ 48; *Arrow Machine Co., Ltd. v. Array Connector Corp.*, 197 Ohio App.3d 598, 2011-Ohio-6513, 968 N.E.2d 515, ¶ 33 (11th Dist.).

Construing the evidence most strongly in favor of Reo, the court finds that there is substantial evidence to support the jury's verdict. Lindstedt's motion for judgment notwithstanding the verdict is denied.

Next at issue is whether Lindstedt is entitled to a new trial pursuant to Civ.R. 59. Civ.R. 59 sets forth the various grounds upon which a party may move for a new trial. Lindstedt did not list any of these grounds but instead argued that: (1) the court had no jurisdiction to hear the case; (2) the statute of limitations had expired on Reo's claims of defamation and invasion of privacy; (3) Reo was a limited purpose public figure with respect to Reo's claim for defamation; (4) Lindstedt was improperly barred from presenting evidence; and (5) the jury was stacked against Lindstedt. Arguably his claims could fall under Civ.R. 59(A)(7), judgment contrary to law or Civ.R. 59(A)(9), error at law occurring at the trial and Civ.R. 59(A)(1), irregularity in the proceedings (stacking of the jury against him).

The court finds that it has jurisdiction pursuant to Civ.R. 3(B)(7) and Civ.R. 4.3(A)(9). Reo resides in Lake County, Ohio and suffered a tortious injury in this state by an act outside this state that was committed with the purpose of injuring him and that the defendant might have reasonably expected that Reo would be injured. With respect to Lindstedt's claim that the statute of limitations expired, the court finds that Lindstedt failed to present evidence when the statements at issue were first published. Reo's claims were thus un rebutted. In addition, Lindstedt failed to present a cogent argument or case citations supporting his claim that Reo was a limited purpose public figure either prior to or during the trial. With respect to his claim that he was improperly barred from presenting evidence, the court notes that Lindstedt failed to comply with paragraph 12 of this court's pre-trial order which required him to submit to the court written lists of the names and witnesses to be presented to testify and the description of exhibits to be presented at trial no later than seven days before trial. In addition, Lindstedt failed to provide a list of all exhibits to be offered at trial, including a brief description of each to Reo two weeks prior to trial

pursuant to paragraph 14(d) of this court's pre-trial order. During earlier pre-trial conferences, Lindstedt was specifically warned that he needed to do so prior to trial.

Lindstedt claims the jury was stacked against him because of the presence of an African-American woman and seven younger male members who appeared to be liberal in Lindstedt's mind. Lindstedt is an avowed white supremacist whose statements on the internet were extremely disparaging to African-Americans and other racial and religious groups. Lindstedt attempted to remove the African-American woman for cause and then peremptorily. Because Lindstedt attempted to excuse this juror solely because of her race, this court refused to do so. Likewise, Lindstedt was dissatisfied with the other seven jurors allegedly because they were not similar to a potential jury in Missouri whom he surmised would be more sympathetic to white supremacist views. The court cannot conclude that the jury did not represent a fair cross section of the community in Lake County. Lindstedt's motion for a new trial is denied.

As previously noted Lindstedt represented himself despite having no formal legal training. While pro se litigants may receive some consideration, the Eleventh District Court of Appeals has held that *pro se* civil litigants are bound by the same rules and procedures as those litigants who retain counsel. They are not to be given greater rights and must accept the results of their own mistakes and errors. *McGrath* citing *Karnofel v. Cafaro Mgt. Co.* (June 26, 1998), Trumbull App. No. 97-T-0072, unreported, at 6. Courts cannot assume the role of advocate for pro se litigants. *McGrath*.

In summary, defendant Martin Lindstedt's motion to set aside the jury verdict and enter judgment in defendant's favor or in the alternative for a new trial is denied.

IT IS SO ORDERED.



PATRICK J. CONDON
Judge of the Court of Common Pleas

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