



Pierson v. Robert Griffin Investigations

92 Nev. 605 (1976) | Cited 4 times | Nevada Supreme Court | October 28, 1976

Per Curiam:

Appellant Fayette Pierson brought suit to recover damages for respondents' publication of an alleged document concerning Pierson. That document was a background investigation of Pierson prepared by Respondent Robert Griffin Investigations, Inc., for Pierson's employer, Respondent NLV Casino Corporation. At the conclusion of Pierson's case, the district court granted respondents' motion to dismiss pursuant to NRCP 41(b). Pierson here contends the district court erred by (1) granting the motion to dismiss and (2) permitting evidence, elicited from Pierson on cross-examination, of specific dishonest acts of Pierson that occurred more than 10 years before the alleged libel. We disagree.

1. At trial, the parties conceded and the court ruled that the document in question was subject to a qualified privilege. As such, statements therein were not actionable unless respondents published with malice in fact or otherwise abused the privilege. See *Gallues v. Harrah's Club*, 87 Nev. 624, 646, n. 1, 491 P.2d 1276 (1971); *Reynolds v. Arentz*, 119 F.Supp. 82, 88 (D.Nev. 1954). The burden of establishing malice or abuse of privilege was on Pierson. See *Gallues v. Harrah's Club*, supra, at 626, n. 2. In granting respondents' motion to dismiss pursuant to NRCP 41(b), the district court held, as a matter of law, that Pierson had failed to meet this burden. The record supports the court's conclusion.

2. Pierson, relying on NRS 50.095, contends the district court erred in admitting into evidence criminal acts committed by him more than 10 years before the alleged libel. 1 Pierson's reliance on NRS 50.095

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is misplaced. Since Pierson's character was put in issue by respondents' defense of truth, the evidence was properly admissible pursuant to NRS 48.055. *Moore v. Davis*, 27 S.W.2d 153, 157 (Tex.Crim.App. 1930). 2 Affirmed.

