

WASHINGTON CASE UPDATE

How Do you Determine if a Statement is Defamatory?

From the desk of Kyle Riley: In Washington, a defamatory statement is a false statement concerning another. The court must decide whether the statement is capable of defamatory meaning as a matter of law. If so, it is a question for the jury whether recipients of the statements understood them to be defamatory. Read on to see how courts analyze these claims.

Claims Pointer: In this case arising out of comments regarding a teacher allegedly distributing medication to her students in the classroom, the Washington Court of Appeals determined that because the statements did not state or imply that the teacher violated school policy by having done so, the statements were not defamatory as a matter of law. The case provides an excellent examination of several of the elements of defamation.

Tollefsen v. Jantz, No. 75117-4-I, Washington Court of Appeals (August 7, 2017) (unpublished)

Lane Tollefsen (“Tollefsen”) was a teacher at King’s Elementary School in Seattle, Washington. Gregory Jantz (“Dr. Jantz”), a psychologist and best-selling author, is a prominent figure in the community. In 2010, Dr. Jantz’s son, Gregg, was a student in Tollefsen’s sixth grade class. Gregg was disruptive and exhibited serious behavioral issues and problems. At a parent-teacher conference with the Jantzes in November 2010, Tollefsen recommended that Gregg be tested for “attention and focus.” The Jantzes did not take the suggestion well and blamed Gregg’s behavioral problems on Tollefsen’s teaching. The following month, Mrs. Jantz arrived early for the class Christmas party, and Tollefsen asked her to come back after class had concluded. Mrs. Jantz later accused Tollefsen of yelling at her in front of the class and insisted that Gregg be transferred to another teacher, which King’s Elementary did. Because it was rare for the school to take such an action, the incident was well known among the school administrators, other teachers, and parents.

In October 2013, Dr. Jantz went on a local radio show to promote his new book. During the segment, Dr. Jantz mentioned that when his “oldest” son was in sixth grade, his teacher suggested he might have attention issues, so he asked his son to count how many boys in his class had to take a pill for attention issues “in front of the teacher” every morning. Another

teacher heard the radio show and sent Tollefsen a text message about it. Later that same month, Dr. Jantz distributed free copies of his book to all the teachers and administrators at King’s Elementary. Another teacher showed Tollefsen a passage from the book in which Dr. Jantz discussed a scene in which “a line of boys paraded up to the teacher’s desk and took some sort of pill” each day, which Dr. Jantz assumed was ADD or ADHD medication. Tollefsen burst into tears after reading the passage, and she has since suffered bouts of depression, insomnia, headaches, and stress, and was prescribed anti-depressants.

In April 2014, Tollefsen served the Jantzes with a complaint alleging, among other claims, defamation for the radio interview and book passage. She did not immediately file the complaint, and Dr. Jantz’s counsel provided Tollefsen with a proposed statement to clarify his remarks. On May 21 and 23, 2014, the radio program aired a prerecorded version of the clarifying statement that referred to the October 2013 broadcast and explained that a teacher was suing Dr. Jantz because she believed that Dr. Jantz had falsely accused her of distributing a controlled substance to boys and therefore engaging in criminal acts. The statement explained that Dr. Jantz neither believed nor intended to imply that any criminal act was taking place; rather, he believed the medication was legally prescribed and authorized by the students’ parents. In July 2014, Tollefsen filed the complaint against Dr. Jantz, adding the clarifying statement as a third defamatory statement. Dr. Jantz moved

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for summary judgment, which the trial court granted. Tollefsen appealed, arguing that because she raised genuine issues of material fact, the trial court erred in granting summary judgment.

The salient issue for the Court of Appeals was whether the statements were defamatory. In Washington, for a statement to be defamatory, it must present a substantial danger to the plaintiff's personal or business reputation. Generally, the defamatory character of the language used must be certain and apparent from the words themselves; however, statements that are harmless in themselves may be defamatory in light of surrounding circumstances. Here, Dr. Jantz stated that someone administered medicine for attention issues to Tollefsen's students in the front of her classroom. Tollefsen testified that no one ever administered medicine in her classroom because the school designated someone to administer all medication. The court noted that Dr. Jantz's statements neither stated nor implied that Tollefsen violated the school policy, even assuming the audience was familiar with the policy. Rather, the court explained, the statements implied that administering medication was normal and appropriate conduct. For the court, such statements were not capable of implying that Tollefsen was violating school policy, and Tollefsen did not present evidence to suggest that Dr. Jantz's audience would know whether King's Elementary had designated her to administer the medicine. Moreover, because Washington law permits school employees to administer medication as authorized by the school and Dr. Jantz's statements did not imply that King's Elementary did not authorize Tollefsen's alleged conduct, the Court determined that the statements did not imply that Tollefsen was violating Washington law.

In sum, the court concluded that Dr. Jantz's statements were not capable of defamatory meaning. Tollefsen therefore failed to meet her burden to show that Dr. Jantz's statements

were defamatory, and summary judgment was appropriate. The trial court was affirmed.

NOTE: This opinion has not been published. It is provided to demonstrate how the court approaches the issues involved in the case. It cannot be cited as authority to a court of law.

View full opinion at: <https://www.courts.wa.gov/opinions/pdf/767488.pdf>

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