

Brady v. Klentzman: Setting the Proper Burden of Proof for Media Defamation Cases

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Brady v. Klentzman arose from a newspaper article that detailed alleged preferential treatment given to the son of a high ranking officer in the Fort Bend County Sherriff's Department. In one incident, the son was given a citation for minor-in-possession of alcohol and, according to the article, the young man's father had continually contacted the officers who issued the citation, implying that the father had attempted to interfere with the investigation and stating that the citing officers were intimidated.

In a second incident, the son and his brother allegedly drove a car to their own home while being followed by a state Department of Public Safety trooper. The article reported that dash cam video showed that the son was so unruly and intoxicated that he had to be handcuffed and put in the backseat of the DPS vehicle, and yet the trooper let the son go with a warning. Tapes of the county's radio system revealed that the Fort Bend County Sherriff had alerted the son's father that he needed to get home to deal with an "incident" and the county dispatcher avoided broadcasting the name of the father's other son over the radio.

The son sued for defamation, alleging that the article's depiction of him as a criminal who used his father's connections to avoid justice was defamatory. The son alleged that the article omitted key details about the incidents, including that he was eventually acquitted of the minor-in-possession charge. The jury found the newspaper liable and awarded \$50,000 in mental anguish and loss-of-reputation damages jointly against the newspaper and the reporter, \$30,000 in exemplary damages against the reporter, and \$1,000,000 in exemplary damages against the newspaper, which the trial judge reduced to \$200,000.

The media defendants appealed, arguing that because the article involved a media defendant's statement on a matter of public concern, the trial court erred in placing the burden of proving the truth of the statements on them, instead of placing the burden on the son to prove that the statements were false. The media defendants also argued that there was no evidence of loss of reputation or mental anguish damages. The court of appeals agreed that the burden of proof was improperly placed on the media defendants, but concluded that there was evidence to sustain the jury's damages findings, and remanded the case for a new trial. Both sides appealed to the Texas Supreme Court, the plaintiff arguing that the trial court judgment should be affirmed, the defendants arguing that the case should be reversed with judgment rendered in their favor, rather than remanded for a new trial. By a 5-4 vote, the Supreme Court affirmed the Court of Appeals' decision.

The Supreme Court first addressed whether the article truly addressed a matter of public concern. The son argued that the details of his behavior were not logically related to his father's actions and were only intended to embarrass him. The Court disagreed, reasoning that while not all details in an article about a matter of concern are also a matter of public concern, as long as the details possess a "logical nexus" to the matter of public concern, they too are considered a matter of public concern. In this case, the Court concluded, the son's behavior was the impetus for his father's alleged abuses. The Court also noted that courts should avoid becoming "involved in deciding the

newsworthiness of specific details in a newsworthy story,” and avoid making “editorial decisions for the media regarding information directly related to matters of public concern.”

That was the good news for the media defendants, but the bad news was that the Court held that some evidence supported the jury’s award of damages, therefore agreeing with the Court of Appeals that remand for a new trial was proper. The Supreme Court found evidence of loss-of-reputation damages in a few isolated pieces of testimony, such as:

- The father testified, with little elaboration, that he had located people in the community with a negative impression of his son.
- The son testified that he was forced to resign from his job, implying that the resignation was caused by his employer seeing the article. He was later rehired.
- The son testified that his friends told him that the article made him look like a criminal.

The dissent argued that none of this evidence actually established a cause and effect relationship between the article and a loss of reputation, and also noted that there had been no testimony that the son’s daily routine was interrupted, a required element of mental anguish damages.

The Court’s decision on the scope of a “matter of public concern” is positive news for media defendants, as is the reaffirmation that plaintiffs suing media defendants for defamation bear the burden of proving falsity. Less encouraging, however, is the Court’s decision on damages, allowing a finding of damages on a scant record, which, as the dissent argued, seems out of step with how damages are scrutinized in other types of tort claims.