

**NOT DESIGNATED FOR PUBLICATION**

**STATE OF LOUISIANA**

**COURT OF APPEAL**

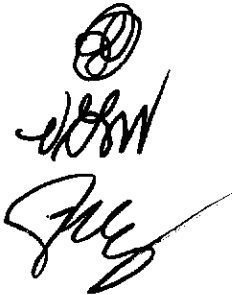
**FIRST CIRCUIT**

**NUMBER 2007 CA 2535**

**PATRICIA BROOKS AND LEO BROOKS**

**VERSUS**

**FATHER OLIVER OBELE AND  
CATHOLIC DIOCESE OF BATON ROUGE**



**Judgment Rendered: May 2, 2008**

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Appealed from the 23<sup>rd</sup> Judicial District Court  
in and for the Parish of Assumption  
State of Louisiana  
Docket Number 29,139

Honorable Guy Holdridge

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**BEFORE: WHIPPLE, GUIDRY, AND HUGHES, JJ.**

## **HUGHES, J.**

This is an appeal by the plaintiffs, Patricia and Leo Brooks, of a summary judgment dismissing with prejudice all of their claims against the defendants, Father Oliver Obele (Fr. Oliver) and the Catholic Diocese of Baton Rouge. After a thorough review of the record and applicable law, we conclude that the defendants are entitled to judgment as a matter of law, and affirm.

### **Factual Background**

The record reveals the following factual history. Patricia Brooks (Mrs. Brooks) is a long-time member of St. Augustine Catholic Church (St. Augustine), in Klotzville, Louisiana, who by all accounts has been an active leader in the church's various volunteer ministries throughout her many years of membership.<sup>1</sup> The Catholic Diocese of Baton Rouge contracted with the Missionaries of St. Paul, an order of priests, to provide a pastor for St. Benedict the Moor Catholic Church (St. Benedict) in Bertrandville, Louisiana and St. Augustine, both in the same parish. In July 2004, Fr. Oliver, the defendant, was assigned to the position of pastor for both churches in the parish. Almost immediately upon the inception of his role as pastor of St. Augustine, Fr. Oliver and Mrs. Brooks shared differences of opinion about some of the decisions and changes he made in his administration of the church. In particular, Mrs. Brooks was opposed to a decision Fr. Oliver made that baptisms would no longer be performed at St. Augustine, but rather, all baptisms would be performed at St. Benedict. According to Mrs. Brooks, she made several attempts to talk things over with Fr. Oliver. Over the course of these meetings, tensions and personality conflicts arose between them.

On November 16, 2004, Mrs. Brooks wrote a letter to Fr. Oliver expressing her disappointment following a conversation they had two days earlier, during

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<sup>1</sup> Mrs. Brooks previously had been employed as a bookkeeper and rectory worker for the church; however, at all times pertinent to this litigation, she was simply a member of the church actively involved in volunteer ministries and was not an employee of the church.

which Mrs. Brooks felt that Fr. Oliver was unable to “hear what [she] was trying to convey.” She wrote that she had lost her spirit and enthusiasm to be a leader and to bring positive things to the church and resigned “immediately from all of the ministries in the church.”

Fr. Oliver accepted her immediate resignation from all ministries of the church in a letter to her dated December 11, 2004. In that letter, he also asked her to turn over all items, materials, and accessories of the church that may still be in her possession within one week from her receipt of the letter. The letter also indicated that copies were sent to the parish council and the “related ministries.”

However, Mrs. Brooks then continued to participate in the church ministries without any further discussion with Fr. Oliver. Upon becoming aware of Mrs. Brooks’ continued participation despite her resignation, on March 10, 2005 Fr. Oliver sent Mrs. Brooks another letter, citing two occasions in which Mrs. Brooks participated in the church’s fundraising ministry subsequent to her resignation. He informed Mrs. Brooks that her activities were in “direct violation of [her] own self-applied resignation” from the church ministries, and reminded her that her “membership, active participation and contributions in these ministries are no longer allowed.” He directed her to “desist from such roles” and to “stop disturbing the peace” of the church. Finally, he wrote that he had been informed by a named church member, in the presence of other members, that Mrs. Brooks still possessed a key to the church hall and possibly the church itself, and reiterated his request that she turn those keys over, no later than March 20, 2005. This letter was copied to the Bishop of the Baton Rouge Diocese, the Superior of the Missionaries of St. Paul, the parish council, and the “related ministries.”

Mrs. Brooks replied by letter dated March 12, 2005, informing Fr. Oliver of the “untold embarrassment not including the physical and mental toll” the situation was having on her. She further informed him that she would take legal action

against him if he read the letter mentioning her name in church or any other public forum. Finally, Mrs. Brooks also wrote: “I hereby **withdraw** my resignation from all ministries of the church effective immediately.”

### **Procedural History**

On August 8, 2005, Mrs. Brooks and her husband filed a petition for damages alleging that beginning in September 2004, and continuing, Fr. Oliver had “continuously retaliated” against her for reporting Fr. Fredrick Isek,<sup>2</sup> the previous pastor for St. Benedict/St. Augustine Parish, to his Order of priests for inappropriate sexual advances against her. She alleged that for nine months, Fr. Oliver committed “retaliatory acts both in the pulpit and out of the pulpit in church” which left her “literally embarrassed.” She claimed Fr. Oliver’s actions and the Diocese’s negligence caused her humiliation and embarrassment, stress and worry, medical expenses, and loss of income suffered as a result of her stressed condition.

The defendants filed a motion for summary judgment asserting that the plaintiff would be unable to factually support her claim. Defendants argued that based on the *undisputed* facts, as revealed in the deposition testimonies of Fr. Oliver and Mrs. Brooks offered in support of the motion, there were no defamatory or false statements made about Mrs. Brooks by Fr. Oliver. Plaintiff opposed the motion with affidavits and deposition testimony of other church members by which she purported to show that Fr. Oliver’s retaliatory acts had damaged her and her reputation among other church members. After a hearing, the trial court granted the motion dismissing plaintiffs’ claims.

Summary judgments on appeal are reviewed *de novo* under the same criteria that govern the trial court’s consideration of whether summary judgment is appropriate; *i.e.* whether there is any genuine issue of material fact, and whether

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<sup>2</sup> “Isek” is spelled “Asika” in all depositions and briefs.

the movant is entitled to judgment as a matter of law. **Wright v. Louisiana Power & Light**, 2006-1181, p. 17 (La. 3/9/07), 951 So.2d 1058, 1070. Most recently, in **Samaha v. Rau**, 2007-1726 (La. 2/26/08), \_\_\_ So.2d \_\_\_, our supreme court reiterated the burden of proof on summary judgments after the 1997 amendments. The law now first places the burden of producing evidence at the hearing on the motion for summary judgment on the mover, normally the defendant, who can ordinarily meet that burden by submitting affidavits *or* by pointing out the absence of factual support for an essential element in the opponent's case. At that point, the party who bears the burden of proof at trial, usually the plaintiff, must come forth with evidence (affidavits, depositions, or other admissible evidence) demonstrating that she will be able to meet the burden at trial. If the plaintiff fails to produce sufficient factual support to establish she can meet this evidentiary burden at trial, there is no genuine issue of material fact, mandating the granting of the motion. *Id.*

### **Defamation**

Defamation is a tort involving the invasion of a person's interest in his or her reputation and good name. **Costello v. Hardy**, 2003-1146, p. 12 (La. 1/21/04), 864 So.2d 129, 139. Four elements are necessary to establish a claim for defamation: (1) a *false* and *defamatory statement* concerning another; (2) an unprivileged publication to a third party; (3) fault (negligence or greater) on the part of the publisher, and (4) resulting injury. **Kennedy v. Sheriff of East Baton Rouge**, 2005-1418, p. 4 (La. 7/10/06), 935 So.2d 669, 674 (Emphasis added.) The fault requirement is generally referred to as *malice, actual or implied*. **Costello**, 2003-1146 at p. 12, 864 So.2d at 139. If any one of these required elements is lacking, plaintiff's cause of action fails. *Id.*, see also **Starr v. Boudreaux**, 2007-0652 at p. 2, (La. App. 1<sup>st</sup> Cir. 12/21/07), \_\_\_ So.2d \_\_\_, \_\_\_.

By definition, a statement is defamatory if it tends to harm the reputation of another so as to lower the person in the estimation of the community, deter others from associating or dealing with the person, or otherwise expose the person to contempt or ridicule. **Costello**, 2003-1146 at p. 13, 864 So.2d at 140.

### **Analysis**

The evidence before the trial court on the motion consisted of the pleadings, the deposition testimony of both Mrs. Brooks and Fr. Oliver, together with copies of the correspondence between them, detailed above, and a copy of a church bulletin that Mrs. Brooks alleged contained defamatory information about her. In opposition to the motion, Mrs. Brooks submitted the affidavits of four other members of St. Augustine Church. These affidavits are identical except for the name of the affiant, and provide:

That I [name of affiant] am familiar with Father Oliver and have known Patricia Brooks for a number of years. **Several statements and publications in the church bulletin** by Father Oliver have caused me concern for the integrity of Patricia Brooks and her reputation. The actions of Father Oliver concerning Patricia Brooks have questioned my confidence in her and the general conversation and the community has questioned if she did anything wrong. (Emphasis added.)

Additionally, Mrs. Brooks introduced the deposition testimony of each of the four affiants, Doris Hebert, Ann Dupaty, Sarita Carter, and Gertrude Joseph, as well as the deposition testimony of a fifth member of the church, Ingrid Breaux.

We have carefully reviewed all of the evidence, and we conclude, as did the trial court, that there are no genuine issues of material fact, and that Mrs. Brooks has failed to make any showing of a false or defamatory statement made about her by Fr. Oliver. The only evidence of alleged “statements” consists of copies of the letters between Fr. Oliver and Mrs. Brooks concerning her resignation from the church ministries and a church bulletin that allegedly defamed her. The letters, detailed above in the factual background, are nothing more than statements of fact

concerning Mrs. Brooks' dissatisfaction with Fr. Oliver's administration of the church and her resignation from the church ministries, together with Fr. Oliver's acceptance of her resignation and his directives to her regarding the return of church property and her participation. While Mrs. Brooks may have not liked the tone or the language used by Fr. Oliver in these letters, she simply has not even alleged, much less proven, that any of the information contained therein is false.

The church bulletin she alleged defamed her is also in evidence. It contains the following message from the pastor:

No member or group of members of this parish has the right to intimidate, or to try to intimidate, other members from the legitimate use of any facility or property that belongs to this parish. Any such report will be treated very seriously.

On the other hand, any parishioner that allows himself/herself to be intimidated from using any of these facilities, legitimately of course, is simply depriving himself/herself [of] his/her natural right and [has] only himself/herself to blame for it.

Notably, the alleged defamatory bulletin does not mention Mrs. Brooks by name or otherwise. Moreover, nothing in the bulletin is alleged to be a false statement; thus, it is of no moment that Mrs. Brooks felt that the message was directed at her, or that other church members may have taken it to be directed at her. Indeed, the testimony of other church members revealed there were persons other than Mrs. Brooks they thought Fr. Oliver may have been referring to in the bulletin message. Likewise, just because the letters and even the bulletin may have embarrassed Mrs. Brooks, as a matter of law, without a false statement, she cannot prove defamation.

The testimony and affidavits of other church members presented by Mrs. Brooks in opposition to the motion also fail to create a genuine issue of material fact and, indeed, support the granting of the motion. Notwithstanding that each affidavit begins with "through several statements and publications," not one single affiant could specify a particular statement, oral or written, about Mrs. Brooks that was false. Although these members testified they were aware of the discord and

animosity between Fr. Oliver and Mrs. Brooks, the only statement they could testify to was Fr. Oliver's response to their questioning him about it to the effect that he could not forgive Mrs. Brooks for what she had done, and his stating that he did not want her name spoken to him. However, each of these affiants testified that Fr. Oliver did not ever tell them "what" Mrs. Brooks had done, but only that he could not forgive it. They testified they had to wonder what could be so bad that a priest could not forgive someone. However, again and most significantly, no one testified that anything false had been said or written.

The plaintiffs have made no showing of any false statement made or written about her by Fr. Oliver, nor have they produced evidence that would support any other theory of recovery. Therefore, the summary judgment was properly granted and is hereby affirmed. Costs of this appeal are assessed to the plaintiffs.

**AFFIRMED.**