

STATE OF MICHIGAN
COURT OF APPEALS

HELEN MAYFIELD,

Plaintiff-Appellant,

v

DETROIT NEWS and ROBERT GILES,
Defendants-Appellees.

UNPUBLISHED

August 2, 1996

No. 180687

LC No. 94-423381 CZ

Before: O’Connell, P.J., and Gribbs and T. P. Pickard,* JJ.

PER CURIAM.

In this defamation action, plaintiff appeals as of right the order granting summary disposition pursuant to MCR 2.116(C)(10) in favor of defendant. We affirm.

On August 30, 1993, defendants published an article concerning plaintiff which stated that she had been refused a license to practice law in the State of Michigan.¹ The article also related that the plaintiff

had passed the written exam, but a State Bar committee found she lacked the necessary character and fitness to practice law. *The committee cited [plaintiff’s] history of bouncing checks and her failure to disclose that she was a litigant in a number of civil lawsuits.* [Emphasis supplied.]

Plaintiff brought suit against defendant newspaper, submitting that the highlighted portions of the article above were false and defamatory. Defendants moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), arguing that they enjoyed a statutory privilege against libel claims under MCL 600.2911(3); MSA 27A.2911(3), which provides as follows: “Damages shall not be awarded in a libel action for the publication . . . of a fair and true report of matters of public record . . . or record generally available to the public” Defendants contended that the information above was obtained from a memorandum and order of the United States District Court, Eastern District of Michigan, dismissing plaintiff’s previous suit against the Michigan Board of Law Examiners. Because defendants had simply

* Circuit judge, sitting on the Court of Appeals by assignment.

presented a fair and true report of a public record, they contended, plaintiff could not prevail in her defamation suit. The circuit court agreed with defendants, and granted summary disposition in their favor. Plaintiff now appeals.

The statutory “fair reporting” privilege, MCL 600.2911(3); MSA 600.2911(3), precludes damages in a libel suit where a defendant engages in the publication of the contents of a public record, provided that the defendant presents a “fair and true” report of that record. The primary question when determining whether the privilege applies concerns not the truth of the questioned statement itself, but whether the statement accurately reports a matter contained in a public record, regardless of the accuracy of the public record. In order for the privilege to apply in the context of court documents, which are, of course, public records, the report must “substantially represent the matter contained in the court records.” *Northland Wheels Roller Skating Center, Inc v Detroit Free Press, Inc*, 213 Mich App 317, 325; 539 NW2d 774 (1995), quoting *Koniak v Heritage Newspapers, Inc*, 190 Mich App 516, 523; 476 NW2d 447 (1991).

In the present case, the article in question presented a fair and true report of *Mayfield v Michigan Board of Law Examiners*, unpublished memorandum and order of the United States District Court, Eastern District of Michigan, Southern Division, entered June 3, 1993 (Case No. 92-CV-77354-DT), p 2, n 4. The *Mayfield* order contained a list of matters concerning plaintiff’s application to the bar that had been referred to the State Bar Standing Committee on Character and Fitness, such as the fact that plaintiff had failed to disclose information about herself that she was obligated to disclose, and that she had a long-standing history of bouncing checks. The article in question substantially represented this information, stating “[t]he committee cited [plaintiff’s] history of bouncing checks and her failure to disclose that she was a litigant in a number of civil lawsuits.” *Northland Wheels, supra*. While the use of the word “considered” rather than “cited” in the article may have been more accurate (because the order itself stated only that the matters had been *referred* to the committee), we find that the article substantially represented the thrust of the statement in the order.² Therefore, in light of the fair reporting privilege, MCL 600.2911(3); MSA 600.2911(3), we agree that summary disposition was appropriate.

Affirmed.

/s/ Peter D. O’Connell

/s/ Roman S. Gribbs

/s/ Timothy P. Pickard

¹ While plaintiff referred to four articles in her complaint and continues to refer to four articles in her brief on appeal, the record before this Court contains evidence of only one article, that appearing on August 30, 1993.

² In addition, appellant admitted on the record during oral argument that the information in the article was true, though she disagreed the article was a fair report of the district court's decision.