IN THE SUPREME COURT OF THE STATE OF DELAWARE

CECIL BROWNE,	§	No. 372, 2000
	§	
Plaintiff Below,	§	Court Below: Superior Court
Appellant,	§	of the State of Delaware in and
	§	for New Castle County
v.	§	
	§	C.A. No. 00C-03-319
BRENDA SAUNDERS,	§	
	§	
Defendant Below,	§	
Appellee.	§	

Submitted: January 9, 2001
Decided: February 14, 2001

Before **VEASEY,** Chief Justice, **WALSH** and **STEELE**, Justices.

ORDER

This 14th day of February 2001, upon consideration of the briefs on appeal, it appears to the Court that:

(1) Cecil Browne appeals the Superior Court's dismissal of his tort action against his former girlfriend, Brenda Saunders. In his complaint, Browne alleges that he is entitled to compensation for a variety of abusive and tortious acts by Saunders during the course of their relationship.

(2) In 1999, Browne was charged with various sexual offenses against Brenda Saunders, including third-degree unlawful sexual intercourse and attempted

third-degree unlawful sexual intercourse.[1] At Browne's trial on these charges, Saunders testified that on September 4, 1998, Browne threatened her with a knife and forced her to engage in several sexual acts.[2] Based on Saunders' testimony, a jury convicted Browne on September 21, 1999. The trial court sentenced Browne to eleven years imprisonment at Level V followed by probation. This Court affirmed Brown's conviction on appeal.[3]

(3) In March 2000, Browne filed the present civil complaint in the Superior Court. Browne's complaint alleges that Saunders physically and, on several occasions, sexually assaulted him during the period that Browne and Saunders lived together. The Superior Court dismissed Browne's complaint because "[t]here does not appear to be any factual basis for the allegations" and because the allegations "appear to be a malicious effort to harass" Saunders because of her role in Browne's conviction.[4]

(4) We review *de novo* the Superior Court's decision to dismiss an action under Super. Ct. Civ. R. 12(b)(6).[5] We accept all well-pleaded allegations as true, and we will dismiss the action only where "the plaintiff would not be entitled to

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[1] *See State v. Browne*, Del. Super., Cr. A. No. IN98-09-0970 (Sept. 21, 1999), *aff'd* Del. Supr, No. 598, 2000 (Nov. 29, 2000) (ORDER).

[2] *See State v. Browne*, Del. Supr, No. 598, 2000 (Nov. 29, 2000) (ORDER), Order at ¶ 6.

[3] *See id.*

[4] *Browne v. Saunders*, Del. Super., C.A. No. 00C-03-319, Toliver, J. (July 20, 2000) (ORDER).

[5] *See Precision Air, Inc. v. Standard Chlorine of Delaware., Inc.*, Del. Supr., 654 A.2d 403, 406 (1995).

recover under any reasonably conceivable set of circumstances susceptible of proof."[6] As a general rule, we interpret pleading requirements liberally where the plaintiff appears *pro se*.[7]

(5) The allegations in Browne's complaint may be divided into three broad categories: (a) general allegations about the abusive nature of Saunders' relationship with Browne, (b) allegations concerning Saunders' participation in his criminal trial, and (c) allegations that Saunders sexually assaulted and physically assaulted Browne.

(6) The first category of allegations concerning the nature of the relationship between Browne and Saunders does not present sufficient well-pleaded facts to support a cause of action. The allegations are vague and conclusory, and they do not provide Saunders with sufficient notice of the nature of Browne's legal claims or of the facts underlying those claims.[8] Similarly, the second category of allegations concerning Saunders' allegedly false testimony against Browne does not provide a factual basis for any cognizable legal claim.[9]

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[6] *Kofron v. Amoco Chem. Corp.*, Del. Supr., 441 A.2d 226, 227 (1982).

[7] *See Vick v. Haller*, Del. Supr., No. 149, 1986, Christie, C.J. (March 2, 1987) (ORDER), Order at ¶ 2 ("A *pro se* complaint, however inartfully pleaded, may be held to a somewhat less stringent technical standard than formal pleadings drafted by lawyers . . . .").

[8] *See Precision Air, Inc. v. Standard Chlorine of Del., Inc.*, Del. Supr., 654 A.2d 403 (1995) (holding that vague allegations may be "well-pleaded" if the allegation provides sufficient notice of the claim).

[9] For example, in order to succeed on a claim of malicious prosecution, the "former proceedings must have terminated in favor of . . . the plaintiff in the action for malicious prosecution." *Megenhardt v. Nolan*, Del. Supr., No. 216, 1990, Walsh, J. (Oct. 18, 1990) (ORDER) (listing six elements of malicious prosecution claim). In the

(7) The third category of allegations is also phrased in vague and conclusory terms.[10] To the extent that the complaint refers to specific alleged incidents, the complaint does not allege sufficient facts to support a cognizable claim for assault or battery. To survive dismissal, Browne's complaint must allege the elements of an assault and battery claim: an "intentional, unpermitted contact upon the person of another which is harmful or offensive."[11] Browne is not required to allege that he was actually harmed by the unpermitted contact because he is entitled to nominal damages if he can prove "'the technical invasion of the integrity of [his] person by even an entirely harmless, yet offensive, contact.'"[12]

(8) Even in view of the liberal pleading standards applied to *pro se* litigants, we conclude that Browne's complaint does not adequately allege facts that, if proven, would give rise to an assault or a battery claim. Because Browne's complaint fails to state a claim upon which relief may be granted, the Superior Court did not err in dismissing the complaint under Super. Ct. Civ. R. 12(b)(6).

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present case, Browne's claim fails because the criminal prosecution resulted in Browne's conviction. To the extent that Brown seeks damages for defamatory statements that Saunders made at his trial, Brown's claim fails because witnesses are "absolutely immune from damages liability at common law for making false or defamatory statements in judicial proceedings (at least so long as the statements were related to the proceeding"). *Burns v. Reed*, 500 U.S. 478, 489-90 (1991) (collecting cases).

[10] *See*, *e.g.*, Complaint at ¶ 13 ("Plaintiff claims that Brenda Saunders would sexually abused [sic] the plaintiff when she wanted sex, first she would ask and then threaten to go out and have sex with somebody else . . . ."); Complaint at ¶ 20 ("Plaintiff claims that in the relationship Brenda Saunders often took sex from the plaintiff . . . .").

[11] *Brzoska v. Olson*, Del. Supr., 668 A.2d 1355, 1360 (1995) (citing W. Page Keeton, et al., Prosser and Keeton on Torts, §§ 8, 9 (5th ed. 1984)).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice

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[12] *Id.* (quoting Prosser and Keeton, at § 9). An offensive contact is "one which would offend the ordinary person" and "is unwarranted by the social usages prevalent at the time and place at which it is inflicted." *Brzoska*, 668 A.2d at 1361 (citing Restatement (Second) of Torts § 19 cmt. a (1965)).