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John W. Larson, District Judge
Fourth Judicial District Dept. 3
Missoula County Courthouse
Missoula, MT 59802
(406) 258-4773

FILED
DEBBIE HARMON, CLERK

RECEIVED
OCT 08 2010

OCT 07 2010
Debbie Harmon
DEPUTY

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT,
RAVALLI COUNTY

MICHAEL E. SPREADBURY,

Cause No. DV-10-224 /31

Plaintiff,

v.

OPINION AND ORDER
GRANTING DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT

NANSU RODDY,

Defendant.

This matter comes before the Court on Defendant Roddy's Motion for
Summary Judgment.

Background

The Court finds the facts as the following. On November 20, 2009,
Hamilton City Court issued a Permanent Order of Protection following a
hearing involving Defendant Nansu Roddy, librarian at the Bitterroot Library,
and Plaintiff Michael Spreadbury. On May 7, 2010, Plaintiff filed an
Amended Complaint claiming infliction of emotional distress and alleging
that Defendant Roddy gave false information to a police officer and a
municipal judge during the protection order hearing. On May 20, 2010, this

10/5/10

1 Court affirmed the Order of Protection. Plaintiff again appealed, and the
2 Montana Supreme Court ordered the appeal moot because it was not timely
3 filed.

4 Standard

5 Under Rule 56, M.R.Civ.P., summary judgment is proper if "the
6 pleadings, depositions, answers to interrogatories, and admissions on file,
7 together with the affidavits, if any, show that there is no genuine issue as to
8 any material fact and that the moving party is entitled to a judgment as a
9 matter of law." The Montana Supreme Court explained the standard as
10 follows:
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13 The movant must demonstrate that no genuine issues of material
14 fact exist. Once this has been accomplished, the burden then
15 shifts to the non-moving party to prove, by more than mere
16 denial and speculation, that a genuine issue does exist. Having
17 determined that genuine issues of fact do not exist, the court
18 must then determine whether the moving party is entitled to
19 judgment as a matter of law.
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23 *Mathews v. BJS Constr., Inc.*, 2003 MT 116, ¶ 12, 315 Mont. 441, 444-45,
24 68 P.3d 865, 868 (citing *Oliver v. Stimson Lumber Co.*, 1999 MT 328, ¶ 21,
25 297 Mont. 336, 342, 993 P.2d 11, 16 (quoting *Bruner v. Yellowstone County*,
26

272 Mont. 261, 264-65, 900 P.2d 901, 903 (1995)).

Discussion

Defendant argues that Plaintiff has not established any evidence of wrongdoing to support his stand-alone claim for emotional distress.

Defendant argues that Plaintiff has not provided any specificity as to what testimony at the hearing was allegedly false, nor has Plaintiff explained how this testimony has resulted in severe emotional distress. Defendant also argues that Plaintiff's claim is barred by *res judicata* and collateral estoppel because Plaintiff has already had an opportunity to litigate the matter of Defendant's credibility, which is the basis for this emotional distress claim, during the Hamilton City Court hearing on the protective order. *Burgess v. State*, 237 Mont. 364, 366, 772 P.2d 1272, 1273 (1989). Defendant argues that the Permanent Order of Protection was granted following a hearing, and Plaintiff had the opportunity to argue and present evidence to impeach Defendant's credibility at that time. Defendant argues that Plaintiff is barred from now pursuing the emotional distress claim because the parties and subject matter are the same.

Plaintiff counters that there are issues of material fact because Defendant made a false statement to a judge, which was different than the report Defendant gave to the police, causing Plaintiff emotional distress.

1 Plaintiff argues that he has not had an opportunity to litigate the emotional
2 distress matter before a jury. Plaintiff argues that as a result of the
3 inconsistency between the police report and the sworn statement to the
4 judge, there is a material factual dispute.

5 Here, Plaintiff alleges that Defendant "intentionally distort[ed] the
6 known facts, and dangers present to the Defendant," and told Plaintiff that
7 she "thought she knew how to help him," while testifying in connection with
8 her request for a protective order. Pl. Amend. Compl. ¶¶ 3-4. Plaintiff also
9 claims that the alleged false statements and distortions caused him "undue
10 jeopardy." Parties asserting independent emotional distress claims must
11 establish "serious" or "severe" emotional distress claims to ensure recovery
12 on genuine claims, and the court must determine whether on the evidence
13 severe [serious] emotional distress can be found. *Sacco v. High Country*
14 *Independent Press*, 271 Mont. 209, 233, 898 P.2d 411, 425 (1995). Plaintiff
15 has not introduced sufficient evidence to support a prima facie case for
16 infliction of emotional distress because he has not established serious or
17 severe emotional distress. This Court has determined that Plaintiff has
18 failed to establish a genuine issue of material fact beyond speculation, and
19 Defendant is entitled to judgment as a matter of law.
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For these reasons,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that

Defendant's Motion for Summary Judgment is GRANTED.

DATED this 5th day of October, 2010.


JOHN W. LARSON, District Judge

10-07-10 DKL

Copies of the foregoing were sent to:

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(406) 363-3877

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Boone, Karlberg, P.C.
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NOV 08 2010

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1 William L. Crowley
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8 *Attorneys for Defendant Nansu Roddy*

9

10

11

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

12

MICHAEL E. SPREADBURY,

Case No. DV-10-224

13

Plaintiff,

NOTICE OF ENTRY OF JUDGMENT

14

v.

15

NANSU RODDY,

16

Defendant.

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18

Pursuant to Mont. R. Civ. P. 77(d), please take notice that a Judgment dated October 18, 2010, dismissing Plaintiff's Complaint has been entered in favor of Defendant and against Plaintiff. A copy of the Judgment is attached hereto.

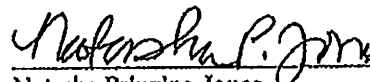
19

DATED this 1st day of November, 2010.

20

BOONE KARLBERG P.C.

21



22

Natasha Prinzing Jones
*Attorneys for Defendant
Nansu Roddy*

23

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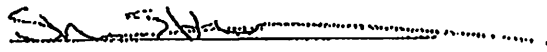
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CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served by U.S. Mail upon the following at his address this 1st day of November, 2010.

Michael E. Spreadbury
700 South Fourth Street
Hamilton, MT 59840

BOONE KARLBERG P.C.

By: 

1 Hon. John W. Larson
District Judge
2 Fourth Judicial District, Dept. 3
Missoula County Courthouse
3 200 West Broadway
Missoula, MT 59802
4 (406) 258-4773

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OCT 29 2010

Erin M. ...
DEPUTY

8 MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

9 MICHAEL B. SPHRADBURY,

Cause No. DV-10-224 / 27

10 Plaintiff,

JUDGMENT

11 v.

12 NANSU RODDY,

13 Defendant.

14
15 On October 7, 2010, the Court granted the motion for summary judgment filed by
16 Defendant Nansu Roddy. Accordingly,

17 GOOD CAUSE APPEARING, judgment is hereby entered in favor of Defendant Roddy.

18 This matter is DISMISSED WITH PREJUDICE.

19 ORDERED this *10th* day of *October*, 2010.

John W. Larson
Hon. John W. Larson
District Judge

20
21 or Michael B. Spreadbury
22 Nansu Prunzing Jones and William L. Crowley

I certify that I forwarded copies of
this instrument to counsel of record
Erin M. ...
Debbie Hammon, Clerk

Erin M. ...
Deputy