

STATE OF MICHIGAN
COURT OF APPEALS

RUTH PINGSTON,

Plaintiff-Appellant,

v

SINAI HOSPITAL,

Defendant-Appellee.

UNPUBLISHED

March 27, 1998

No. 199521

Wayne Circuit Court

LC No. 96-604417-CZ

Before: O’Connell, P.J., and Gribbs and Smolenski, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court’s order granting defendant’s motion for summary disposition pursuant to MCR 2.116(C)(10) in this defamation action. We affirm.

Plaintiff first argues that the trial court erred in granting summary disposition in favor of defendant because she came forward with evidence from which the jury could conclude that defendant’s conduct was defamatory. Plaintiff is employed as a nurse for defendant, Sinai Hospital. In September, 1995, at the start of her shift, plaintiff went to the nurses conference room where she joined other nurses in reviewing patient information. The Assistant Vice President of Nursing, Roberts, entered the room and sat next to plaintiff. Roberts subsequently handed plaintiff’s assignment sheet to the clerk and escorted plaintiff out of the conference room. Thereafter, plaintiff was asked to undergo blood testing to check her blood alcohol level. Plaintiff maintains that the actions of Roberts are sufficient to constitute defamatory conduct. We disagree.

In *Bonkowski v Arlan’s Dept Store*, 383 Mich 90, 97; 174 NW2d 765 (1970), the Michigan Supreme Court held that a security guard’s accusatory statements to the plaintiff customer after she had just left the store’s premises satisfied the publication requirement of a defamation action because “publication was made out, by the ‘holler’ of the guard within hearing of others (whether identified or not) and by the ‘dramatic pantomime’ or ‘transitory gestures’ which ensued within the sight of others.” In *Bonkowski*, the plaintiff had just left the defendant store when a security guard motioned the plaintiff to return to the store and informed her that someone in the store had told him that she had put three pieces of costume jewelry into her purse without having paid for them. *Bonkowski v Arlan’s Dept*

Store, 12 Mich App 88, 94; 162 NW2d 347 (1968), reversed in part 383 Mich 90; 174 NW2d 765 (1970).

In *Tumbarella v Kroger Co*, 85 Mich App 482; 271 NW2d 284 (1978), this Court held that the acts of the defendant store's security guard in approaching the plaintiff employee and asking her where the money was and then escorting her to the back storeroom fit into the category of 'dramatic pantomime' found to constitute publication in the *Bonkowski* case." *Tumbarella, supra*, 85 Mich App 493.

In this case, defendant's removal of plaintiff from the conference room does not amount to the type of non-verbal defamatory conduct which the Michigan Supreme Court found actionable in *Bonkowski* and this Court found actionable in *Tumbarella*. Roberts did not accuse plaintiff of smelling like alcohol or make any statement reflecting on plaintiff's inability to perform her duties in the presence of third persons.

This case is also different from both *Bonkowski* and *Tumbarella* because in those cases, the defamatory conduct was made by security officers in a retail setting. In such an environment, where there is a risk of theft, the act of police or security personnel detaining a customer while searching through her purse or asking an employee to the back storeroom, could suggest to third persons watching that the person being investigated has been involved in some type of wrongdoing. No such inference can be made in this case. When Roberts appeared in the conference room, plaintiff believed that Roberts was a physician. An interaction between a physician and a nurse does not necessarily create an inference of wrongdoing on behalf of a nurse. In fact, several of plaintiff's coworkers testified that a nurse's removal from a work station by Roberts could be for a positive reason.

Accordingly, when viewed in a light most favorable to plaintiff, this evidence is insufficient to establish defamatory conduct. Summary disposition was therefore proper under MCR 2.116(C)(10).

In light of our disposition of this issue, it is unnecessary to address plaintiff's other arguments on appeal.

Affirmed.

/s/ Peter D. O'Connell

/s/ Roman S. Gibbs

/s/ Michael R. Smolenski