

STATE OF MICHIGAN
COURT OF APPEALS

SAMER JAAFAR,

Plaintiff-Appellant,

v

LAURIE M. SABON,

Defendant-Appellee.

UNPUBLISHED

July 9, 2002

No. 229992

Wayne Circuit Court

LC No. 99-918804-NO

Before: Fitzgerald, P.J., and Holbrook, Jr., and Doctoroff, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed this action, alleging claims for slander and other related causes of action premised on defendant's publication of an allegedly false and defamatory statement. The trial court dismissed plaintiff's claims, finding that he had consented to the publication of the defamatory statement in a release and thus defendant's statements were absolutely privileged.

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). "This Court reviews the affidavits, pleadings, and other documentary evidence submitted by the parties and, where appropriate, construes the pleadings in favor of the nonmoving party. A motion brought pursuant to MCR 2.116(C)(7) should be granted only if no factual development could provide a basis for recovery." *Cole v Ladbroke Racing Michigan, Inc*, 241 Mich App 1, 6-7; 614 NW2d 169 (2000).

A communication regarding a person is absolutely privileged if the person who is the subject of the communication consented to it. *Hollowell v Career Decisions, Inc*, 100 Mich App 561, 575; 298 NW2d 915 (1980). The privilege applies if "(1) there was either express or implied consent to the publication; (2) the statements were relevant to the purpose for which consent was given; and (3) the publication of those statements was limited to those with a legitimate interest in their content." 50 Am Jur 2d, Libel & Slander, § 272, p 538. Both the interpretation of a release and whether a privilege applies in a defamation action are questions of law for the court to decide. *Cole, supra* at 13; *Couch v Schultz*, 193 Mich App 292, 294; 483 NW2d 684 (1992).

The release signed by plaintiff authorized Dearborn Heights to conduct a background investigation. It provided in pertinent part:

I hereby authorize the City of Dearborn Heights, Michigan, to conduct investigation into my background including criminal history, driving record, previous employment . . . , educational background, medical history, military history, personal history, and to conduct any other investigation that it deems appropriate.

I request any custodian of the aforementioned information including duly constituted law enforcement agencies or judicial officers or other appropriate persons to furnish the City of Dearborn Heights with all information it may have pertaining to me.

Phillip Wengrowski conducted the investigation. Although defendant may have contacted Wengrowski to say that she had information pertaining to plaintiff, the release gave Wengrowski authority to conduct any investigation he deemed appropriate, which would include following up on unsolicited information pertinent to his inquiry. Defendant was not a custodian of records pertaining to plaintiff's history nor was she a judicial officer or a law enforcement agency. She was, however, an "other appropriate person," being someone who had information pertaining to plaintiff's personal history, and thus plaintiff consented to her disclosure of such information. Taking the evidence in a light most favorable to plaintiff, it is apparent that plaintiff consented to release of the information provided by defendant, the information was relevant to the inquiry into plaintiff's fitness to serve as a police officer, and disclosure was limited to the person conducting the background investigation. Therefore, the trial court did not err in finding that defendant's allegedly defamatory statements were not actionable.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Donald E. Holbrook, Jr.
/s/ Martin M. Doctoroff