

STATE OF SOUTH CAROLINA) CERTIFIED COPY) IN THE COURT OF COMMON PLEAS
COUNTY OF DORCHESTER) 2001 OCT 12 PM 4:44) CASE NO.: 00-CP-18-646

STEVE GRATZER,
PLAINTIFF,

Cheryl Graham
CLERK OF COURT
DORCHESTER COUNTY

VS.

ORDER

DIABLO WESTERN PRESS, INC.
AND RODNEY STICH,

DEFENDANTS.

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CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

PROCEDURAL HISTORY

This is a defamation case. This Plaintiff filed suit against the Defendant alleging that the Defendant, Rodney Stich, defamed him in a book entitled "Drugging America, A Trojan Horse." The Defendant, Diablo Wester Press, Inc., was named as a Defendant publisher. By previous Order of this Court, the Defendants were held in default. A damages hearing was held before me on June 12, 2001. The Defendants were properly notified of this hearing. No appearance was made on behalf of the Defendants. Present at the hearing were the Plaintiff, Steve Gratzner, and his counsel David Athell Collins and Troy Guerard Knight.

FACTUAL HISTORY

Steve Gratzner is a 51 year old male from Butte, Montana. Mr. Gratzner is an Army veteran who became disabled in a parachuting accident and went into the teaching profession. In 1986, he married Doris Gratzner and moved to the hamlet of Ely, Nevada. While living there, Doris began having health problems, including bouts of depression. While under the care of two physicians in Ely, she began abusing prescription drugs and eventually disappeared from her home in February 1995. Sometime later she was found in her car buried beneath a snow bank. She had committed suicide and this is confirmed by the

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autopsy and police reports as well as the testimony of Mr. Gratzer

After the death of his wife, Mr. Gratzer moved to West Virginia and continued his teaching career. While there, he was asked by the Federal Authorities to testify against Ms. Gratzer's physician on weapon charges. (The physician was later convicted and sentenced).

Mr. Gratzer later moved to Allendale, South Carolina and became a librarian with the South Carolina Department of Corrections. A transfer to the Lieber Correctional Institute brought him to Dorchester County where he remains.

While at a work related conference, Mr. Gratzer was approached by a co-worker who informed him that Mr. Stich's book, "Drugging America," had accused Mr. Gratzer of murdering his wife. Mr. Gratzer obtained copy of the book from the Internet and discovered that the allegation was indeed true. This suit followed.

Mr. Gratzer testified that he had no criminal history. He was shocked and dismayed at reading the story and that the accusations are without any factual support whatsoever. He is extremely concerned that Stich's allegations are being circulated throughout the country and feels that his hard-earned reputation has been smeared.

LEGAL ANALYSIS

The defamation complained of in this case is libel. To establish common law defamation, the Plaintiff must establish that the offending statements had the following characteristics:

- (1) it had a defamatory meaning;
- (2) it was published with actual or implied malice;
- (3) it was false;
- (4) it was published by the Defendant;
- (5) it concerned the Plaintiff; and

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(6) it resulted in legally presumed damages or in special damages to the Plaintiff.

Smith v. Bradstreet, 63 S.C. 525, 41 S.E. 763 (1902).

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Since the Defendant ^{Stich} ~~Pepper~~ is in default, he is deemed to have admitted the truth of the Plaintiff's allegations and to have conceded liability. Roche v. Young Brothers, Inc. of Florence, 332 S.C. 75, 504 S.E.2d 311 (S.C. 1998). However, a cursory reading of Mr. Stich's work shows that it contains several defamatory references to the Plaintiff. The statements certainly tend to "impeach the honesty, integrity, virtue or reputation of one who is alive and thereby expose him to public hatred, contempt, ridicule or obloquy . . ." Smith v. Bradstreet, 63 S.C. 525, 41 S.E. 763 (1902).

There is no evidence before this Court to support Stich's theory regarding the murder of Doris Gratzner. In fact, the evidence presented through the testimony of the Plaintiff establishes her suicide. There is also no doubt that the Defendants published the defamatory material and disseminated it throughout the country. It became apparent to this Court that the Defendant Stich never contacted the Plaintiff regarding the truth of his allegations nor did any independent investigation as to their veracity.

ACTUAL DAMAGES

In South Carolina, all libel is actionable without proof of special damages. Holtzscheiter v. Thomason, 332 S.C. 502, 506 S.E.2d 497 (S.C. 1998). "General damages include such things as injury to reputation, mental suffering, hurt feelings and other similar types of injuries which are incapable of definite money valuation." Whitaker v. Sherbrook Distributing Co., 189 S.C. 243, 200 S.E. 848 (1939). Damage to one's reputation is difficult to quantify. Mr. Gratzner has been accused of a serious crime in a nationally disseminated work. Mr. Gratzner testified that he ordered the book from an Internet site which leads this Court to believe that the book is being sold on a national scale.

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This Court agrees with the great American writer Thomas Paine who said "reputation is something which is much easier kept than recovered." Thomas Paine, The Crisis, 1776-1783. Mr. Gratzner may spend his remaining life trying to defend himself against the serious accusations made by Mr. Stich. Accordingly, this Court finds that Mr. Gratzner has suffered general damages in the amount of \$1,000,000.00 and enters judgment accordingly.

PUNITIVE DAMAGES

In order to recover punitive damages, a libeled Plaintiff must present clear and convincing evidence that the Defendant acted with constitutional malice. Gertz v. Robert Welch, 418 U.S. 323, 94 S.Ct. 2997, 41 L.Ed 789 (1974). Mr. Gratzner must convince this Court that Stich knew that he was not involved in the murder of Doris Gratzner or at least had serious reservations about his involvement. DeLoach v. Beaufort Gazette, 281 S.C. 474, 316 S.E.2d 139 (1984). Holtzscheiter v. Thomson, 332 S.C. 502, 506 S.E.2d 497 (S.C. 1998). All evidence in this case points to the Defendant Stich's lack of investigation into his allegations. Autopsy and police reports clearly show that Doris Gratzner died of a self-inflicted wound. Mr. Stich failed to even contact Mr. Gratzner to determine the existence of any facts germane to Mr. Gratzner's death.

Additionally, this Court has received into evidence correspondence from the Defendants showing a lack of respect for the legal system and this Court.

The purpose of punitive damages is twofold. Initially, it is hoped that an award of punitive damages will deter other tort-feasors from engaging in similar conduct. Secondly, they are designed to punish the wrongdoer. This Court deems this case to be a compelling example of the need for punitive damages. Mr. Stich's conduct cannot be condoned in a civilized society and as such an award of punitive damages is appropriate. This Court finds

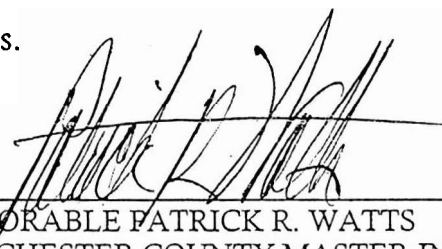
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that punitive damages in the amount of \$3,000,000.00 is appropriate.

CONCLUSIONS

Based upon the testimony presented and arguments of counsel, as well as the conduct of the Defendants, this Court finds that the Plaintiff should have judgment against the Defendants, Diablo Wester Press, Inc. and Rodney Stich, in the following amounts:

- (1) \$1,000,000.00 as actual damages;
- (2) \$3,000,000.00 as punitive damages.



HONORABLE PATRICK R. WATTS
DORCHESTER COUNTY MASTER-IN-EQUITY

Dated: July 9, 2001
Summerville, South Carolina