

Florida Supreme Court Rejects False Light

Digital Media and Data Privacy Law Blog

on 10.24.2008

Posted in Privacy

The Supreme Court of Florida yesterday issued two opinions holding that Florida law does not recognize the false light invasion of privacy tort. These outcomes constitute significant wins for media defendants in a state where the existence of false light as a viable state-law claim has been hotly debated.

Rapp v. Jews for Jesus, Inc. involved statements made by the plaintiff's stepson in a newsletter that suggested the plaintiff had joined or was a believer in the Jews for Jesus philosophy. Essentially, the plaintiff argued in the underlying proceedings that, while literally true, the statements created a false impression of her, and she brought claims for false light invasion of privacy, defamation, and intentional infliction of emotional distress based upon the statements.

The court rejected the plaintiff's position following a thorough comparison of the elements of and interests at stake in false light and defamation claims.

We once again acknowledge that it is our duty to ensure the "protection of the individual in the enjoyment of all of his inherent and essential rights and to afford a legal remedy for their invasion." However, because the benefit of recognizing the tort, which only offers a distinct remedy in relatively few unique situations, is outweighed by the danger of unreasonably impeding constitutionally protected speech, we decline to recognize a cause of action for false light invasion of privacy.

On the same day it released Rapp, the Supreme Court of Florida also released Anderson v. Gannett. Like Rapp, Anderson involved false light invasion of privacy and defamation claims based on the same set of facts. The question before the court in Anderson was the applicable statute of limitations for false light claims, but the court dismissed the question as moot given its holding in Rapp.

Florida Supreme Court Rejects False Light

False light is one of the four branches of the common-law invasion of privacy tort. In states that recognize false light as viable claim, a plaintiff must generally show that a defendant disseminated some highly offensive false publicity about an identified person with knowledge of or reckless disregard for the falsity of the statement. The elements are derived from the Restatement (Second) of Torts, 652(E).

With these two decisions, Florida joins a number of other states in rejecting false light as a permissible state-law claim.