

Fourth Circuit Splits the Defamation Baby

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In late February, the United States Court of Appeals for the Fourth Circuit agreed with a trial court ruling that a jury was entitled to decide whether calling the plaintiff a “gangster” and a “thug,” and alleging that he had been intoxicated at a convention, was indeed defamatory. In a Solomonic twist, however, the court nonetheless vacated the trial court’s judgment for the plaintiff because of reversible errors in the jury instructions.

The claim arose from a column in the Korean-language *Inside the World* newspaper, which opined that a prominent businessman in the U.S. Korean community was “not just an organized gangster, but a thug.” The column also claimed that the plaintiff had been visibly intoxicated at a Federation of Korean Associations of America convention in 2005.

The court held that such statements could “reasonably be understood as stating actual facts about” the plaintiff, not just “hyperbolic, shorthand label[s].” Taken the statements as a whole, the court said, it was not an error for the trial court to conclude that a jury question as to defamation had been created.

That said, however, the court vacated the verdict because the trial court’s jury instructions were wholly inadequate. First, the trial court simply defined defamation as “a false statement of fact as opposed to a statement of opinion.” This definition, the Fourth Circuit said, did not provide enough guidance as to the “line separating constitutionally protected speech from actionable defamation.”

In addition, the Fourth Circuit held, the trial court’s instruction as to the intoxication claim was inadequate because it did not make clear that defamation requires that the statement be both false *and* defamatory. The trial court had not made clear that the statements had to be more than simply false.

So, even though the plaintiff had created a jury question as to defamation, the Fourth Circuit sent him back to square one as a result of the reversible abuse of discretion on the part of the trial court in giving its instructions to the jury.