

IN THE SUPREME COURT OF THE STATE OF NEVADA

FLETCHER COREY, INDIVIDUALLY,
Appellant,
vs.
CAROL MCNAMARA,
Respondent.

No. 47068

FLETCHER COREY,
Appellant,
vs.
CAROL MCNAMARA,
Respondent.

No. 47491 /

FILED

JAN 30 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

These are consolidated appeals from a district court judgment entered after a bench trial in a defamation action. Eighth Judicial District Court, Clark County; David Wall, Judge.

After appellant Fletcher Corey, an employee of the United States Postal Service, came into possession of an e-mail stating that he trapped and tortured cats, he filed a complaint in district court against his co-workers, respondent Carol McNamara and Michael Mascio,¹ claiming defamation and intentional infliction of emotional distress (IIED).² At a

¹Michael Mascio made no appearance at calendar call or trial, and the district court entered default judgment against him. Mascio is not a party to this appeal.

²Corey also brought a cause of action for civil conspiracy. The district court dismissed the civil conspiracy claim, and Corey does not appeal the dismissal.

08-02398

bench trial, the district court admitted, over Corey's objection, certain documents relating to a grievance he filed during his employment.

The district court entered judgment in favor of McNamara. Corey appeals, arguing that the district court's judgment was not supported by substantial evidence and that the district court abused its discretion by admitting the grievance documents at trial. The parties are familiar with the facts, and we do not recount them here except as necessary for our disposition.

On appeal, this court upholds a district court's factual findings if supported by substantial evidence.³ "Substantial evidence is that which 'a reasonable mind might accept as adequate to support a conclusion.'"⁴ "Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses."⁵ Regarding Corey's defamation claim,⁶ the record reflects that, although Corey presented evidence that McNamara made a false or defamatory statement about Corey and that a causal link

³Goodrich & Pennington v. J.R. Woolard, 120 Nev. 777, 782, 101 P.3d 792, 795 (2004).

⁴Taylor v. Thunder, 116 Nev. 968, 974, 13 P.3d 43, 46 (2000) (quoting Yamaha Motor Co. v. Arnoult, 114 Nev. 233, 238, 955 P.2d 661, 664 (1998)).

⁵NRCP 52(a).

⁶See Simpson v. Mars Inc., 113 Nev. 188, 190, 929 P.2d 966, 967 (1997) ("[T]o establish a prima facie case of defamation, a plaintiff must prove: (1) a false and defamatory statement by defendant concerning the plaintiff; (2) an unprivileged publication to a third person; (3) fault, amounting to at least negligence; and (4) actual or presumed damages.").

existed between the alleged statement and Corey's emotional distress, McNamara also presented evidence that refuted those claims. Thus, the district court's findings are not clearly erroneous and substantial evidence supports the district court's conclusion. Regarding Corey's IIED claim,⁷ Corey failed to establish that, even if McNamara made defamatory statements about him, such conduct was extreme and outrageous. Accordingly, we conclude that substantial evidence existed to support the district court's judgment in favor of McNamara on Corey's claims of defamation and IIED.

This court reviews a district court's decision to admit evidence for an abuse of discretion.⁸ The district court admitted the grievance documents as relevant evidence detailing other stressors in Corey's work environment that may have contributed to his mental distress. We conclude that the district court did not abuse its discretion by admitting the grievance documents at trial.⁹ Accordingly, we

⁷See Star v. Rabello, 97 Nev. 124, 125, 625 P.2d 90, 91-92 (1981) ("Generally, the elements of [a] cause of action [for IIED] are (1) extreme and outrageous conduct with either the intention of, or reckless disregard for, causing emotional distress, (2) the plaintiff's having suffered severe or extreme emotional distress and (3) actual or proximate causation."); Maduiké v. Agency Rent-A-Car, 114 Nev. 1, 4, 953 P.2d 24, 26 (1998) ("According to the California Book of Approved Jury Instructions ("BAJI") No. 12.74, extreme and outrageous conduct is that which is 'outside all possible bounds of decency' and is regarded as 'utterly intolerable in a civilized community.'").

⁸Sheehan & Sheehan v. Nelson Malley & Co., 121 Nev. 481, 492, 117 P.3d 219, 226 (2005).

⁹See NRS 48.015 (defining "relevant evidence" as "evidence having any tendency to make the existence of any fact that is of consequence to
continued on next page . . .

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

cc: Hon. David Wall, District Judge
William F. Buchanan, Settlement Judge
Kirk T. Kennedy
Ralph J. Rohay
Eighth District Court Clerk

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the determination of the action more or less probable than it would be without the evidence"); NRS 48.035 (instructing that otherwise admissible relevant evidence is not admissible "if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury").