


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PHILIPPE ZIADE,
Appellant,
vs.
ZAINAB ANASTASIA ABDULLAH,
Respondent.

No. 88246-COA

FILED

JUL 03 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Philippe Ziade appeals from a district court order, certified as final under NRCP 54(b), granting an anti-SLAPP special motion to dismiss his defamation claim. Eighth Judicial District Court, Clark County; Danielle K. Pieper, Judge.

Ziade, a Las Vegas resident, and respondent Zainab Anastasia Abdullah, a Canadian citizen residing in California, were in a long distance online relationship for approximately five months before Abdullah relocated to Las Vegas. During the relationship, Ziade provided Abdullah with funds that she represented would be used to pay for legal representation to obtain a restraining order against her abusive ex-boyfriend, and to pay for hospital bills. On August 6, 2021—shortly after Abdullah arrived in Las Vegas—she filed a police report that alleged Ziade sexually assaulted her on multiple occasions while visiting her in her hotel room. However, the responding officer indicated in the police report that Abdullah declined to press charges, and that she refused to submit to a Sexual Assault Nurse Examination exam at the time of the report. Soon after Abdullah moved in with Ziade.

The relationship quickly deteriorated. On August 27, both parties reported a domestic disturbance at Ziade's home. Ziade called the

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police non-emergency line and reported that Abdullah locked herself in her bedroom and was refusing to leave his home after a discussion wherein Abdullah was “crying and yelling because [he] was not showing her the attention she wanted.” After leaving the home, Abdullah called 9-1-1 and later reported to the officers responding to her call that Ziade had committed an act of domestic violence on her person by shoving her down the stairs, grabbing her by the shoulders and dragging her by the hair toward the front door. The accompanying police report reflects that Abdullah refused to show the responding officers her injuries at the scene and that they “could not substantiate that a battery occurred.” Abdullah presented to the hospital the next day with bruising on her left collarbone. As a result of the August 27 police report and related follow-up interviews, Ziade was charged with misdemeanor domestic violence. Although Ziade denied the allegations made against him, he apparently agreed to take anger management courses in exchange for a dismissal of the misdemeanor charge.

In July 2022, Ziade sued Abdullah for defamation, among other things, alleging that she made false and defamatory statements against him to police officers in connection with false reports that he sexually assaulted her on August 6, and battered her on August 27.¹ Abdullah subsequently appeared in the action by filing an anti-SLAPP special motion to dismiss under NRS 41.660, which Ziade opposed.

¹Ziade also sued Abdullah for unjust enrichment and false misrepresentation. However, because this appeal is before this court on an NRCP 54(b) certification of the order dismissing Ziade’s defamation claim, we only discuss the facts pertinent to this disposition.

Both parties submitted arguments regarding whether statements made to police qualified as good faith communications under any subcategory listed in NRS 41.637, whether Abdullah's statements were made in good faith or without knowledge of falsehood, and, with regard to the second prong of the anti-SLAPP analysis, whether Ziade demonstrated prima facie evidence of a probability of prevailing on his defamation claim.

In her motion, Abdullah argued that her statements to police were truthful and made without knowledge of falsehood and qualified under NRS 41.637 as statements that constituted a "[c]ommunication of information or a complaint to a Legislator, officer or employee of the Federal Government, this state or a political subdivision of this state, regarding a matter reasonably of concern to the respective governmental entity" under subsection (2) or a "[w]ritten or oral statement made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law" under subsection (3). Abdullah further argued that Ziade would be unable to meet his burden under prong two of the anti-SLAPP analysis as her communications were protected by the privilege identified in *Pope v. Motel 6*, 121 Nev. 307, 317-18, 114 P.3d 277, 283-84 (2005) (holding that a qualified privilege applies to statements to the police about suspected criminal activity, and that the plaintiff must demonstrate that the statements were false and made with actual malice, i.e., "reckless disregard for veracity or with knowledge of falsity," to prevail on a defamation claim). Abdullah also attached a signed and sworn declaration to her motion stating that her police reports and the allegations contained therein were true and correct, specifically stating that she "gave a truthful account of what happened," and that she "answered honestly" when questioned by police.

In opposing the motion, Ziade attached a signed and sworn declaration wherein he recounted what happened on August 27, and stated that he never had sex with Abdullah or assaulted or attempted to assault her during their relationship. Ziade declared that he had given Abdullah a substantial sum of money before she moved to Nevada and that he had multiple text messages from Abdullah "attacking [him] and telling [him he] is not supporting her for not giving her money." Ziade also stated that police advised him to block Abdullah after the events of August 27 as she would likely continue to harass him for money.

Both parties submitted arguments regarding whether statements made to police qualified as good faith communications under any subcategory listed in NRS 41.637, whether Abdullah's statements were made in good faith or without knowledge of falsehood, and whether Ziade demonstrated prima facie evidence of a probability of prevailing on his defamation claim.

Specifically, Ziade attached a redacted copy of the August 27 police report where the officer concluded that he was "not able to substantiate that a battery had occurred based upon the fact that [Abdullah] did not want to show me her injuries and was not fully cooperative with officers on scene." Ziade argued that Abdullah's statements did not qualify as protected communications or statements under any of the subsections identified in NRS 41.637, and that, in light of his competing sworn affidavit and her failure to cooperate with police, Abdullah failed to demonstrate that her statements were truthful or made without knowledge of falsehood. As to the probability of prevailing on his defamation claim, Ziade argued that the alleged defamatory statements contained in these reports constituted defamation per se, and that he

demonstrated that Abdullah acted with actual malice as she made the statements with knowledge of falsity, overcoming any assertion of privilege under *Pope*.

The district court held a hearing on Abdullah's motion and subsequently requested supplemental briefing on the issue of good faith. The district court expressed that some of the "decisions that [Abdullah] made seem[ed] contrary to what I have to look at in regard to the good faith communication" issue and whether the allegations were truthful or made without knowledge of falsehood.

As part of her supplemental briefing, Abdullah submitted the August 6 police report, the unredacted August 27 police report, text messages between herself and Ziade, text messages between herself and a detective that investigated the initial August 6 incident, transcripts of recorded phone calls between herself and Ziade wherein he threatened her with litigation, and emails between herself and the district attorney's office in connection with Ziade's criminal case. Abdullah also attached a second signed and sworn declaration, wherein she discussed the details of the alleged August 6 sexual assault, stated that the text messages were true and correct copies, and stated that the transcripts were accurate. Abdullah further stated in her declaration that she was afraid Ziade "would hurt [her] if [she] followed through with reporting the sexual assault to the police." Abdullah also submitted text messages that indicated Ziade threatened to sue her for the police reports. In addition, she summarized her interactions with the detectives that investigated her case as well as the district attorney's office, and declared that she cooperated with all aspects of the investigation.

Ziade's supplemental brief included a motion to strike the text messages and phone call transcripts on grounds that they were unauthenticated and thus inadmissible evidence. As to his own evidence, which Ziade declared was true and correct, Ziade presented the bodycam footage from the night of the August 27 incident, Abdullah's September 1 voluntary statement to police, the declaration of warrant from his criminal investigation, and his own text messages to Abdullah. Ziade's supplemental brief compared the statements provided to police on both occasions and highlighted that Abdullah told a different version of the story to responding officers on August 27 than she did in her voluntary statement provided to police on September 1.

Ziade also included a second signed and sworn declaration wherein he again declared that he never had sex with Abdullah or assaulted her, recounted his own version of events from the August 27 incident, and stated that "[o]n or around November 11, 2021, I was interviewed by [a detective working on the case]. At the conclusion of the investigation, he told me Abdullah was not credible and I was free to leave." Ziade's declaration again recounted that he and Abdullah met online, and that their relationship began degrading after he stopped providing her with money and "advised her to move on."

The district court ultimately entered an order granting Abdullah's special motion to dismiss Ziade's defamation claim. In its order, the district court summarily found that Abdullah met prong one of the anti-SLAPP analysis in that her statements to the police were truthful and

without knowledge of falsehood.² As to prong two, the district court found that Ziade's "specific factual evidence is not enough to present a prima facie case of success on the merits or demonstrate any minimal merit to his defamation claim," and that he failed to overcome the qualified privilege for statements made to police about suspected criminal activity outlined in *Pope*. In so doing, the court found that "no genuine issue of material fact [remained], [found Abdullah] credible, and [found] no evidence that she spoke untruthfully or with actual malice." The district court subsequently certified its dismissal of Ziade's defamation claim as final pursuant to NRCp 54(b) and Ziade now appeals.

On appeal, Ziade argues that Abdullah's motion to dismiss his defamation claim fails under both prongs of Nevada's anti-SLAPP statute and makes several arguments in support of being able to proceed on his defamation claim. Regarding the second prong of the statute, Ziade argues, among other things, that the district court erred by assessing Abdullah's credibility and weighing the evidence when determining whether he demonstrated prima facie evidence of his probability of prevailing on the defamation claim. Specifically, he argues that the evidence presented to the district court demonstrated a genuine dispute of material fact as to the falsity of Abdullah's statements to police, and that the court made a

²Under Nevada's anti-SLAPP statutes, a district court must conduct a two-prong analysis in evaluating a special motion to dismiss. Under the first prong, the district court must "[d]etermine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern." NRS 41.660(3)(a). If the moving party makes this initial showing, the burden shifts to the plaintiff under the second prong to show "with prima facie evidence a probability of prevailing on the claim." NRS 41.660(3)(b).

credibility determination by simply choosing to believe Abdullah's declarations over his own. He further argues that the district court erred in concluding the privilege outlined in *Pope* applied to Abdullah's statements to bar his defamation claim as a matter of law. In response, Abdullah argues that the district court appropriately determined that her statements to police met the first prong of the anti-SLAPP analysis, and that, because her statements were protected by the qualified privilege in *Pope*, Ziade cannot demonstrate that his defamation claim has minimal merit. Abdullah further argues that, even if the privilege did not apply, Ziade would still be unable to demonstrate that his claims had minimal merit. We agree with Ziade.

This court reviews a district court order granting an anti-SLAPP motion to dismiss de novo. *Smith v. Zilverberg*, 137 Nev. 65, 67, 481 P.3d 1222, 1227 (2021). A district court may grant an anti-SLAPP motion to dismiss only when both prongs of NRS 41.660 are satisfied, *i.e.*, when the moving party has demonstrated that the claim is based on a good faith communication in furtherance of the right to free speech or in direct connection with an issue of public concern *and* when the nonmoving party fails to demonstrate that the claim has minimal merit. NRS 41.660(3). If both prongs are not met, the claim may proceed to trial. *See Taylor v. Colon*, 136 Nev. 434, 437-38, 482 P.3d 1212, 1216 (2020). In this case, we focus on prong two of the statute. Although we do not resolve this appeal under prong one of Nevada's anti-SLAPP statute, we note that the qualified privilege under NRS 41.637 only applies to good faith communications, and because there are genuine disputes of material fact regarding whether Abdullah's statements to law enforcement were made in good faith, the applicability of the qualified privilege under the facts and circumstances of

this case cannot be determined at this stage of the litigation as is more fully explained below. *Cf. Lubin v. Kunin*, 117 Nev. 107, 115-16, 17 P.3d 422, 428 (2001) (holding that even when a qualified privilege is generally a question of law the defamation claim can still proceed to the jury if sufficient facts are presented to invoke an exception to the privilege based on an inference of malice).

In determining if Ziade has satisfied prong two of the anti-SLAPP statute, “[t]he court does not make any findings of fact. Rather, prong two merely requires a court to decide whether a plaintiff’s underlying claim is legally sufficient.” *Taylor*, 136 Nev. at 437, 482 P.3d at 1216 (citing *Briggs v. Eden Council for Hope & Opportunity*, 969 P.2d 564, 574-75 (Cal. 1999)). A claim is legally sufficient if the plaintiff demonstrates that his claim has minimal merit—that is—if the plaintiff makes “a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited.” *Wynn v. Associated Press*, 140 Nev., Adv. Op. 56, 555 P.3d 272, 278 (2024) (quotation marks omitted); *see also Abrams v. Sanson*, 136 Nev. 83, 91-92, 458 P.3d 1062, 1069-70 (noting, in examining whether a plaintiff had demonstrated that her claims had minimal merit, that “the anti-SLAPP statutes protect against frivolous lawsuits designed to impede protected public activities without striking legally sufficient claims.”).

Under the current statutory scheme, an anti-SLAPP special motion to dismiss functions like a motion for summary judgment.³ *Wynn*,

³We note, however, that although an anti-SLAPP special motion to dismiss *procedurally* functions like a motion for summary judgment, our supreme court has clarified that the burden of proof is distinct. *See Panik v. TMM, Inc.*, 139 Nev., Adv. Op. 53, 538 P.3d 1149, 1154-55 (2023) (holding

140 Nev., Adv. Op. 56, 555 P.3d at 279. Accordingly, when reviewing whether a claim has minimal merit under the second prong of anti-SLAPP, “the evidence, and any reasonable inferences drawn from it, must be viewed in [the] light most favorable to the nonmoving party.” *Id.* (quoting *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005)).

Our appellate courts routinely look to California for guidance in the area of anti-SLAPP law. *Id.*; *see also* NRS 41.665(2) (requiring a plaintiff seeking to demonstrate a probability of success on the merits of his or her claim under the second prong of anti-SLAPP to meet the burden of proof that “a plaintiff has been required to meet pursuant to California’s anti-Strategic Lawsuits Against Public Participation Law as of June 8, 2015”). Similar to our own Nevada law regarding motions for summary judgment, *see Borgerson v. Scanlon*, 117 Nev. 216, 220, 19 P.3d 236, 238 (2001) (stating that “a district court cannot make findings concerning the credibility of witnesses or weight of evidence in order to resolve a motion for summary judgment”), California courts have held that when evaluating whether a claim has minimal merit, the district court does not “weigh credibility, nor [does it] evaluate the weight of the evidence. Instead, [the district court] accept[s] as true all evidence favorable to the plaintiff and assess[es] the defendant’s evidence only to determine if it defeats the plaintiff’s submission as a matter of law.” *Six4Three, LLC v. Facebook, Inc.*, 330 Cal. Rptr. 3d 661, 677 (Cal. Ct. App. 2025) (internal quotation marks omitted).

that “the relevant inquiry is not whether the plaintiff can establish a genuine issue of material fact, but whether the plaintiff can produce prima facie evidence in support of its claims”).

To state a claim for defamation, a plaintiff must show “(1) a false and defamatory statement by [a] 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.” *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 718, 57 P.3d 82, 90 (2002). Defamatory statements involving the imputation of a crime or serious sexual misconduct are considered defamation per se and “[n]o proof of any actual harm to reputation or any other damage is required for the recovery of damages.” *K-Mart Corp. v. Washington*, 109 Nev. 1180, 1192, 866 P.2d 274, 282 (1993), *receded from in part on other grounds by Pope*, 121 Nev. at 317, 114 P.3d at 283. A false statement of a crime has historically been designated as defamation per se where damages are presumed. *Id.* at 1194, 866 P.2d at 283.

In its order granting Abdullah’s special motion to dismiss, the district court based its determination that Ziade’s defamation claim lacked minimal merit on its findings that Abdullah was credible and that there was no evidence that she spoke untruthfully or with actual malice. The court further found that Ziade’s “specific factual evidence [was] not enough to present a prima facie case of success on the merits or demonstrate any minimal merit to his defamation claim,” although it offered no explanation as to how Ziade’s evidence was insufficient for this purpose.

These findings demonstrate that the district court failed to apply the proper prong two analysis in granting Abdullah’s special motion to dismiss. Here, the foundation of Ziade’s defamation claim was that Abdullah purportedly made false reports to police stating that he committed crimes against her person, constituting defamation per se. In the proceedings below, the parties presented sworn declarations under penalty

of perjury stating different versions of events, alongside copies of the police reports in question. Abdullah also presented medical documentation from the day after the August 27 incident, purportedly demonstrating bruising that she claimed was a result of her injuries from Ziade's acts of domestic violence.


As detailed above, in determining whether a claim has minimal merit, the district court does not weigh credibility or evaluate the weight of the evidence, instead, the district court should view the evidence presented in the light most favorable to the nonmoving party. *Wynn*, 140 Nev., Adv. Op. 56, 555 P.3d at 279; *Six4Three, LLC*, 330 Cal. Rptr. 3d at 677. But in this case, despite the parties' presentation of competing evidence, the district court's findings reflect that it weighed the parties' credibility and relied, at least in part, on that determination to conclude Ziade failed to demonstrate prima facie evidence that his claim had minimal merit. The court's findings further reflect that it improperly weighed the evidence in finding there was no evidence Abdullah was untruthful or acted with actual malice and that Ziade's "specific factual evidence" was insufficient to present a prima facie case of success on the merits. Instead, the district court should have accepted all evidence favorable to Ziade as true and only assessed Abdullah's evidence to determine if it defeated Ziade's evidence as a matter of law. *See Wynn*, 140 Nev., Adv. Op. 56, 555 P.3d at 279; *see also Taylor*, 136 Nev. at 438, 482 P.3d at 1216 (stating that the "prima facie evidence standard [under prong two of the anti-SLAPP analysis] requires the court to decide whether the plaintiff met his or her burden of production to show that a reasonable trier of fact could find that he or she would prevail").


Based on our review of the record before us, and taking the evidence presented in the light most favorable to Ziade, we conclude that the competing declarations, taken alongside the demonstrated variations in Abdullah's statements to police, were enough to demonstrate minimal merit as to the element of Ziade's defamation claim that Abdullah's statements were false. *See Wynn*, 140 Nev., Adv. Op. 56, 555 P.3d at 279; *Taylor*, 136 Nev. at 438, 482 P.3d at 1216. Further, to the extent the district court found, and Abdullah argues, that the privilege identified in *Pope* applies, we conclude Ziade presented sufficient evidence at this stage to demonstrate minimal merit as to his allegation that Abdullah acted with actual malice in making the police report such that the privilege may not apply. 121 Nev. at 317-18, 114 P.3d at 283-84 (discussing the qualified privilege for statements to the police about suspected criminal activity, and noting that the plaintiff must demonstrate by a preponderance of the evidence that the statements were false and made with actual malice, to prevail on a defamation claim).


Moreover, Abdullah does not assert, and the district court did not find that Ziade's complaint failed to show minimal merit as to the elements of fault or damages. Because Ziade's allegation that Abdullah maliciously made false statements to police had minimal merit, we conclude that a reasonable trier of fact could find in Ziade's favor on the elements of fault and damages as well. *See Pegasus*, 118 Nev. at 718, 57 P.3d at 90 (requiring proof of fault, amounting to at least negligence); *K-Mart Corp.*, 109 Nev. at 1192, 866 P.2d at 282 (recognizing that false statements imputing a crime are *per se* defamatory, without the need to prove damages for recovery); *Taylor*, 136 Nev. at 438, 482 P.3d at 1216.

Based on the forgoing analysis, Ziade presented prima facie evidence to demonstrate that his defamation claim has minimal merit such that the district court erred in granting the anti-SLAPP special motion to dismiss as to that claim. *See Wynn*, 140 Nev., Adv. Op. 56, 555 P.3d at 279; *Taylor*, 136 Nev. at 438, 482 P.3d at 1216; *Pegasus*, 118 Nev. at 718, 57 P.3d at 90. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.⁴


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Danielle K. Pieper, District Judge
Clark Hill PLLC
Muehlbauer Law Office, Ltd.
Tucker Ellis LLP / California
Eighth District Court Clerk

⁴Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either need not be reached or do not present a basis for relief.