

Honest belief no defence to defamatory tweet about MP (Maggi v. Smith)

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The Supreme Court of Canada has stated that “the right to free expression does not confer a licence to ruin reputations”. This principle was illustrated in *Maggi v. Smith*, 2026 ONSC 6080, a recent decision arising from a heated political controversy on social media. In this decision, the Ontario Divisional Court affirmed that an honest belief in the truth of a serious allegation will not shield a speaker from liability for defamation.

The plaintiff was a lawyer who later became a Member of Parliament. The dispute had its origins in a federal Liberal Party nomination contest held in 2014. Various concerns were raised throughout that contest regarding campaign conduct, voting procedures, membership eligibility and alleged efforts to discourage certain individuals from voting. Some of the concerns were the subject of internal party proceedings and appeals but there were no findings that the plaintiff had personally threatened prospective voters about their immigration or residency status.

Nearly nine years later, during the Ontario Liberal Party leadership campaign, the defendant published a series of posts on the social media platform X (formerly Twitter) discussing those events. One post alleged that hundreds of visible minority voters had been told that their permanent resident status could be affected if they attempted to vote, and that the plaintiff had personally participated in that conduct.

The plaintiff denied the allegations and sued the defendant for defamation in the Small Claims Court.

A defamation claim requires a plaintiff to prove (1) that the impugned words were defamatory, in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person; (2) that the words in fact referred to the plaintiff; and (3) that the words were published, meaning that they were communicated to at least one person other than the plaintiff: *Grant v. Torstar Corp.*, [2009] 3 SCR 640, at paragraph 28.

The Small Claims Court deputy judge found that the plaintiff established that he had been defamed by the defendant's allegation that he personally participated in telling prospective voters that their permanent resident status could be adversely affected if they voted. The court awarded damages of \$25,000 plus costs.

The defendant appealed the decision on several grounds, including that the deputy judge had focused on a single tweet rather than the publication as a whole, wrongly rejected the defence of justification, and gave inadequate weight to freedom of expression in political speech.

The appeal judge rejected the argument that the deputy judge had ignored the broader context. In that regard, the deputy judge had reviewed the history of the nomination contest, the appeal materials and the evidence about letters and robocalls before concluding that “the gravamen of the publication” remained the allegation of threats to voters. In its ordinary meaning, the defendant's post accused the plaintiff of intimidating vulnerable voters in a democratic process, which would plainly lower him in the estimation of reasonable members of society.

The central issue was the justification defence. A defendant relying on that defence must prove that the subject statement was substantially true *Bent v. Platnick*, [2020] 2 SCR 645, at paragraph 107), and that it is not enough to establish suspicion, rumour, partial truth or sincere belief: *Grant v. Torstar Corp.*, at paragraph 33.

The deputy judge had noted that if witnesses had truly reported that a “bald headed lawyer” was making threats about voters' residency status, one would expect their names and the particulars of what they saw to have been recorded. However, no such evidence was produced. While the defendant may have honestly

believed the allegation about the plaintiff, the appeal judge emphasized that “belief is not proof.” In that regard, if honest belief alone were sufficient, serious allegations could be repeated without an adequate evidentiary foundation, which “is how unsubstantiated rumours are spread and reputations are damaged.”

The appeal judge also dismissed the freedom of expression argument, which in substance invited the court to give greater protection to political statements made with an honest belief in their truth. In the appeal judge's view, the democratic significance of a topic does not lessen the need for accuracy when serious allegations are made against individuals; if anything, it heightens the importance of an adequate evidentiary foundation for factual allegations about those who seek or hold public office.

Although the responsible communication defence had not been expressly pleaded, the appeal judge also considered it given that the claim had been adjudicated in the Small Claims Court, where parties are often self-represented. The defence could not succeed. The subject matter was of public interest, but the reliability of the information that the defendant relied on was doubtful, and the age of the allegations made careful verification more, not less, important. Of note, the defendant conceded on appeal that he never sought the plaintiff's side of the story before publishing.

Finally, the appeal judge found no basis to interfere with the damages award. Damages in successful defamation claims are presumed, and the plaintiff was not required to prove that he had suffered any economic loss. The deputy judge had considered the seriousness of the allegation, the extent of publication and the plaintiff's standing as a lawyer and an elected official, while also accepting that the defendant's conduct was foolhardy rather than malicious. Measured against comparable authority such as *D'Alessio v. Chowdhury*, 2023 ONSC 6075, where \$20,000 was awarded for online statements about lawyers, the \$25,000 award was well within the reasonable range.

The appeal was therefore dismissed with \$10,000 in costs payable to the plaintiff.

This decision provides a good reminder that social media posts about public figures are held to the same legal standards as any other publication. While political debate is unquestionably important, those who make serious factual allegations about political figures online should be prepared to prove them, and to show that they took reasonable steps to verify them, including giving the target of their statements a reasonable chance to respond. Sincerity of belief, no matter how strongly held, is not a defence.

(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

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