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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FIVE

JOHN JEZZINI,

Plaintiff and Respondent,

v.

AMANDA ADOLF,

Defendant and Appellant.

B292299

(Los Angeles County
Super. Ct. No. PC058585)

APPEAL from a judgment of the Superior Court of Los Angeles County, Stephen P. Pfahler, Judge. Affirmed.

Joshua Koltun for Defendant and Appellant.

Thomas A. Turner, Jr. and John T. Cavan for Plaintiff and Respondent

When John Jezzini was attempting to purchase property from California City on which to establish a large marijuana cultivation facility, “citizen journalist” Amanda Adolf posted, on her civic affairs Facebook page, a story critical of Jezzini. Specifically, she reported that he previously had been arrested and charged with several felonies, including marijuana offenses, of which he actually had been charged; and financial crimes, of which he had not. Jezzini sued Adolf for defamation, based on the false statements that he had been charged with the financial felonies. Adolf responded with a motion to strike under the anti-SLAPP law.¹ (Code Civ. Proc., § 425.16.) The motion was denied, as the court concluded Jezzini had established a probability of prevailing on his defamation claim. We agree, and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. Jezzini’s Encounters with the Law

Before we discuss the allegedly defamatory statement, it is helpful to have an understanding of the criminal and civil proceedings in which Jezzini has – and has not – been involved.

In 2011, when medical marijuana had been decriminalized in California under certain circumstances, a task force comprised of representatives of the federal Drug Enforcement Administration and Los Angeles Police Department investigated Jezzini’s warehouses – believing they were used to cultivate, store, and distribute marijuana in violation of the restrictions imposed on medical marijuana collectives. The task force conducted surveillance, obtained a search warrant, and searched multiple warehouses and homes related to Jezzini and his

¹ A “SLAPP” is a Strategic Lawsuit Against Public Participation. (*Bradbury v. Superior Court* (1996) 49 Cal.App.4th 1108, 1111.)

associates. Large quantities of marijuana and cash were seized, as were the funds in certain bank accounts. The task force investigation resulted in both a state criminal prosecution and a federal civil forfeiture proceeding.

A. *The Criminal Prosecution*

On March 20, 2014, a complaint was filed, charging Jezzini with felony cultivation of marijuana (Health & Saf. Code, § 11358) and possession for sale of marijuana (Health & Saf. Code, § 11359). A warrant issued.

On October 16, 2014, during the preliminary hearing, the prosecution amended the complaint to add a charge of possession of concentrated cannabis (Health & Saf. Code, § 11357, subd. (a)). Jezzini pleaded no contest to this offense. Jezzini was ordered to do 100 hours of community service. On October 20, 2015, with Jezzini's community service complete, the offense was reduced to a misdemeanor (Pen. Code, § 17, subd. (b)) and imposition of sentence was suspended. The remaining two counts were dismissed. On February 1, 2016, Jezzini had his guilt set aside and the complaint dismissed under Penal Code section 1203.4.

B. *The Civil Forfeiture*

On September 22, 2011, the United States filed a civil forfeiture action against the funds seized by the task force – an amount in excess of \$500,000. Jezzini was identified as a person whose interests may be adversely affected by the forfeiture. It does not appear that Jezzini personally opposed the forfeiture, but Green Healing, a corporation of which he was the CEO, sought return of its funds, claiming it had been operating in full compliance with California's medical marijuana laws. The district court denied Green Healing's motion for summary

judgment, finding triable issues of fact existed as to whether Green Healing was in compliance.

The civil forfeiture action was ultimately resolved by a consent judgment, in which the claimants (including Green Healing) agreed with the government that \$51,360.51 would be returned to the claimants, and the remaining \$490,724.05 would be forfeited to the government.

2. *Adolf's Article*

Adolf is a citizen journalist who live-streams city council meetings of California City over the internet. She also runs a Facebook page referred to as “Eyes On You,” which “consists of a constant stream of news, information, and commentary concerning politics and civic and community concerns of California City.”²

On June 28, 2017, Adolf posted, on Eyes on You, an article critical of the city council’s consideration of one of Jezzini’s companies as a possible buyer of City property.

The relevant language of the article, with the challenged provisions emphasized, is as follows:

Council member Parris stated that he was
changing his previous objection to the successor
agency sale of property to this company. So?
Who is this “impressive” company?

² Adolf does not admit that she runs the Facebook page. Initially, when Jezzini brought suit, he named a Doe defendant and served Facebook with a subpoena duces tecum for documents related to the identity of the person who ran the page. Adolf, as a Doe, unsuccessfully attempted to quash that subpoena. Once Adolf’s identity was revealed, Jezzini amended the complaint to name her. For purposes of her anti-SLAPP motion only, Adolf assumes that she wrote the post Jezzini alleges is defamatory.

Canna Pharmaceuticals, Inc., CEO John Jezzini.

John Jezzini himself, along with a long list of his family and associates have an extensive history in Marijuana; so extensive in fact, that John Jezzini, family, and associates have been arrested and charged with several felony crimes; including:

H&S 11358, Cultivation: Planting, Harvesting, or Processing.

H&S 11359, Possession of Marijuana for Sale.

H&S 11357, Possession.

PC 14166, 6 counts of Money Structuring

PC 186.10, 4 counts of Money Laundering

John Jezzini is apparently so well known, that he and his associates were used as an example of the City of Naples, Florida to vote against the legalization of Marijuana and Dispensaries. See pages 193-198.

[Hyperlink to City of Naples City Council Exhibit]

These are the type of people YOUR CITY is brin[g]ing into YOUR COMMUNITY!

We have some more information to come with a recent development concerning Dispensaries in California City.

Sources: Los Angeles County Sheriff's Department, LAPD-Topanga, *Los Angeles*

County Superior Court, California Secretary of State.

3. *Jezzini's Complaint*

On August 22, 2017, Jezzini brought suit against Adolf, alleging libel. Specifically, he challenged as false and libelous the assertions that he had been arrested and charged with money structuring and money laundering – as he had not been charged with those crimes. He further challenged the citation of the Los Angeles Superior Court as a source, in that it implied that court records actually confirmed that he had been charged with the financial offenses.³

³ Two comments are necessary at this point. First, in his complaint, Jezzini also challenged as libelous the article's claim that he had been "arrested and charged" with possession, within the meaning of Health and Safety Code section 11357. Although Jezzini was not arrested for that crime, he was ultimately charged with it, plead no contest to it, and convicted of it. In opposition to the anti-SLAPP motion, Jezzini made no argument that he could actually succeed in establishing libel with respect to this statement, nor does he do so on appeal. We therefore do not address it further.

Second, we observe that Jezzini's complaint, through the creative use of omissions, misstates the key language of Adolf's article. Specifically, the complaint quotes the article as stating: "John Jezzini himself, . . . [has] been arrested and charged with several felony crimes; including:" money structuring and money laundering. But the article did not state that "Jezzini himself" had been arrested and charged with the offenses; it stated that "Jezzini himself" had a long history in the marijuana industry, and that "Jezzini, family, and associates have been arrested and charged" with the itemized offenses. Adolf makes no argument that the statement was true on the basis that Jezzini's "family and associates" were charged with money laundering and money

4. ***Adolf's Anti-SLAPP Motion***

Adolf moved to strike the complaint under the anti-SLAPP law.

“Anti-SLAPP motions are evaluated through a two-step process. Initially, the moving defendant bears the burden of establishing that the challenged allegations or claims ‘aris[e] from’ protected activity in which the defendant has engaged. [Citations.] If the defendant carries its burden, the plaintiff must then demonstrate its claims have at least ‘minimal merit.’ [Citations.]” (*Park v. Board of Trustees of California State University* (2017) 2 Cal.5th 1057, 1061.)

Here, there is no dispute that Adolf’s post, as part of a public discussion regarding an issue before the City Council of California City, constituted protected activity within the meaning of the anti-SLAPP law. The sole issue in dispute is whether Jezzini’s libel claim has minimal merit, the so-called second prong of an anti-SLAPP motion.

Adolf’s argument that it did not took two forms. First, Adolf argued that the statements that Jezzini was arrested and charged with money laundering and money structuring were substantially true, given the civil forfeiture proceeding. Second, Adolf argued that the statements regarding money laundering and money structuring were absolutely privileged, as fair and true reports of an exhibit placed before the Naples, Florida City Council.

structuring. We therefore assume, as do the parties, that Jezzini’s family and associates are irrelevant to our resolution of the anti-SLAPP motion.

Adolf explained the latter argument as follows. When the City of Naples was considering a local ordinance regarding marijuana dispensaries, a 216-page document, prepared by Drug Free Florida Committee, was submitted by members of the public. That document, in turn, contained a PowerPoint presentation prepared by an Assistant District Attorney for Los Angeles, who was the director in charge of the medical marijuana unit. Six pages of that PowerPoint presentation discussed Jezzini and the task force operation against him.

Adolf submitted copies of those pages as part of her Exhibit O in support of her anti-SLAPP motion. The PowerPoint has a cover sheet, identifying it as “Medical Marijuana Dispensaries Impact: L.A. Update,” a presentation apparently prepared for “SOS Marijuana Summit, Tampa 2013.” (The year is significant; the presentation is dated after the civil forfeiture proceedings were instituted, but prior to any criminal charges having been filed against Jezzini.) The PowerPoint slides regarding Jezzini discuss the large amount of marijuana and cash seized from his operations and home, include a photo of Jezzini, quote some statements he made, and note his lavish lifestyle apparently acquired from his supposed non-profit operation.

One final slide reads:

CHARGES

- H.S. 11358 CULTIVATION OF MARIJUANA – 1 count
- H.S. 11359 POSSESSION OF MARIJUANA FOR SALE – 1 count
- P.C. 14166 MONEY STRUCTURING – 6 counts (JEZZINI & [a third party] only)

- P.C. MONEY LAUNDERING – 4 counts (JEZZINI & [third party] only)

In Adolf's article, after she stated that Jezzini and "his associates were used as an example of the City of Naples, Florida to vote against the legalization of Marijuana," she included a hyperlink to the entire 216-page exhibit which had been submitted to the City of Naples City Council, and she specifically referenced the pages of that exhibit corresponding to the slides discussing Jezzini. Because one of those slides listed six counts of money structuring and four counts of money laundering against Jezzini and his associate as "CHARGES," Adolf argued that her representation that Jezzini had been so charged was a fair and true report of the relevant portion of the Naples City Council meeting, and therefore absolutely privileged. (Civil Code, §47, subds. (d) & (e).)⁴

5. *Jezzini's Opposition*

Jezzini argued that he had a probability of prevailing on his libel cause of action. He submitted his declaration to the effect that he had never been arrested and charged with money laundering or money structuring. He argued that, in the marijuana industry, a criminal record for marijuana-related offenses (which he concededly had) is not necessarily a negative,

⁴ Civil Code section 47, subdivision (d)(1) describes as privileged, "a fair and true report in, or a communication to, a public journal, of (A) a judicial, (B) legislative, or (C) other public official proceeding, or (D) of anything said in the course thereof, . . ." Subdivision (e) extends the privilege to "a fair and true report of (1) the proceedings of a public meeting, if the meeting was lawfully convened for a lawful purpose and open to the public"

but allegations of financial felonies hurt one's ability to raise capital. He included an expert's declaration to that effect.

As to Adolf's argument of substantial truth, due to the civil forfeiture, Jezzini argued there was nothing in the civil forfeiture proceedings to support Adolf's statement that he had been charged with felony money laundering and money structuring.

In response to Adolf's argument that the statement of charges against him was privileged as a fair and true report of the Naples City Council meeting, Jezzini argued that Adolf's evidence was insufficient to establish what actually occurred at the Naples City Council meeting, so it could not be determined as a matter of law that her statement was a fair and true report of the meeting.⁵

⁵ Jezzini also successfully objected to Adolf's Exhibit O. On appeal, Adolf suggests in passing, that the court abused its discretion in sustaining the objection, but also argues that the objection is irrelevant because the court granted her request for judicial notice of the same document. Exhibit O was *not* the 216-page exhibit to which she had hyperlinked in her article. Instead, it was a collection of unauthenticated documents apparently intended to authenticate the hyperlinked exhibit itself, and containing only a fragment of that exhibit. It began with an unofficial "Action Report" from the Naples City Council, excerpts from minutes (with no indication of approval) of the relevant Naples City Council meeting, a two-page "Paid political advertisement paid for by Drug Free Florida Committee," and, finally, the relevant six slides from the PowerPoint discussing Jezzini. Adolf's request for judicial notice did not seek judicial notice of the entirety of Exhibit O; instead, it sought judicial notice that the hyperlink in her post did, in fact, lead to a package of materials submitted by anti-marijuana advocates to the Naples City Council, and that, specifically, Adolf had referenced the few Jezzini-related pages of the PowerPoint,

6. *Jezzini's Reply*

In reply, Adolf argued that, as to substantial truth, the issue was not whether the statement of money laundering charges had a worse impact on Jezzini's business than the marijuana charges; the issue was whether the statement of money laundering charges was substantially the same as Jezzini having agreed to forfeit nearly \$500,000 from his marijuana operations. Adolf believed that it was.

As to whether the assertion of financial felonies was privileged as a fair and true report, she took the position that "[w]hether that PowerPoint presentation was itself accurate is irrelevant. Under Section 47(e), the only question is whether Eyes on You gave a 'fair and true' report of what was stated in that document."

7. *Ruling and Appeal*

The trial court denied the anti-SLAPP motion, concluding Jezzini had established a probability of prevailing on his libel claim.

The court found that Adolf had failed to show that her statement that Jezzini had been arrested and charged with money laundering and money structuring was substantially true. The court was not convinced by Adolf's reliance on the civil forfeiture proceedings, stating, "The federal forfeiture action was

including the one stating "CHARGES." We see no contradiction or error in the trial court's rulings; it is undisputed that Adolf linked to the documents submitted to the Naples City Council, but her surrounding documents are unauthenticated and inadmissible. On appeal, Adolf has submitted an identical request for judicial notice to the one she submitted in the trial court. It is unopposed, and we now grant it.

civil, not criminal, and it did not set forth money laundering or money structuring charges.”

The court also found that Jezzini “has made a sufficient showing to create a triable issue as to whether the subject statements are privileged under Civil Code Section 47(d)(1) and/or Civil Code 47(e).” The court ruled that Jezzini had demonstrated a probability of prevailing on whether the statements were a fair and true report of the Naples City Council meeting and the PowerPoint slide presentation submitted to the Naples City Council. Specifically, the court concluded that Adolf submitted insufficient evidence “to establish what actually took place at the meeting to determine whether the statement made in the post is a ‘fair and true report’ of same.”⁶

Adolf filed a timely notice of appeal.

DISCUSSION

1. Standard of Review

As stated above, we are here concerned with the second prong of the anti-SLAPP analysis, whether the plaintiff has established a probability of prevailing.

“To establish a probability of prevailing, the plaintiff “must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited.” [Citations.] For purposes of this inquiry, “the trial court considers the pleadings and evidentiary

⁶ On appeal, Adolf represents that the slides were the only portions of the Naples City Council meeting which had anything to do with Jezzini, and includes a URL citation to the full record of the Naples City Council meeting, and another URL citation to a video of that meeting. Neither the full record nor the video were before the trial court, and we do not consider them.

submissions of both the plaintiff and the defendant [citation]; though the court does not *weigh* the credibility or comparative probative strength of competing evidence, it should grant the motion if, as a matter of law, the defendant’s evidence supporting the motion defeats the plaintiff’s attempt to establish evidentiary support for the claim.” [Citation.] In making this assessment it is “the court’s responsibility . . . to accept as true the evidence favorable to the plaintiff” [Citation.] The plaintiff need only establish that his or her claim has “minimal merit” [citation] to avoid being stricken as a SLAPP.’ [Citations.]” (*Hawran v. Hixson* (2012) 209 Cal.App.4th 256, 273-274.) On appeal, our review is de novo. (*Id.* at p. 299.)

2. Defamation

“Defamation is effected by either of the following: [¶] (a) Libel; [¶] (b) Slander.’ (Civ. Code, § 44.) To constitute libel or slander, the published statement must be false. (Civ. Code, §§ 45, 46.)” (*Hughes v. Hughes* (2004) 122 Cal.App.4th 931, 936.)

3. Adolf Has Not Established Substantial Truth as a Matter of Law

It is not seriously disputed that Jezzini offered substantial evidence that Adolf’s Facebook post was, in fact, false – to the extent it stated he had been arrested and charged with six counts of felony money structuring within the meaning of Penal Code section 14166 and four counts of felony money laundering within the meaning of Penal Code section 186.10.

California, however, permits the defense of *substantial* truth. (*Hughes v. Hughes, supra*, 122 Cal.App.4th at p. 936.) A defendant is not required to justify every word of the defamatory matter; slight inaccuracy is permissible as long as the substance of the charge is true. (*Ibid.*) What matters is that the “gist or

sting” of the charge is true. (*Jennings v. Telegram-Tribune Co.* (1985) 164 Cal.App.3d 119, 127.) Whether a statement is true or substantially true is a factual issue generally left to the jury. (*Hughes* at p. 937.)

However, defamation defendants have prevailed on this issue as a matter of law when their statements had only minor inaccuracies which would have had no effect on the reader. (*E.g. Braun v. Chronicle Publishing Co.* (1997) 52 Cal.App.4th 1036, 1050, fn. 6 [reporting that the district attorney opened an investigation is substantially true when the State Auditor had actually opened the investigation, but disclosed all information to the district attorney]; *Jennings v. Telegram-Tribune Co.*, *supra*, 164 Cal.App.3d at pp. 122, 127 [statement that plaintiff was “convicted of tax fraud” is substantially true when the plaintiff had, in fact, pleaded no contest to willfully and knowingly failing to file tax returns]; *Hayward v. Watsonville Register-Pajaronian & Sun* (1968) 265 Cal.App.2d 255, 261-262 [stating that plaintiff was sent to a “Kansas prison” was substantially true when he was sent to a Kansas reformatory].) As one court explained it, “The situation is analogous to that of an accused criminal who enters a plea of nolo contendere. His action for defamation against a reporter of the details of the crime with which he was charged would fail. And this would be true even if the reporter noted that he had been charged with attacking his victim with a tire iron when in reality it had been a ball-peen hammer.” (*Colt v. Freedom Communications, Inc.* (2003) 109 Cal.App.4th 1551, 1561.)

These cases do not assist Adolf. Adolf falsely stated that Jezzini had been arrested and charged with 10 counts of financial felonies in the State of California. She argues that this

statement was substantially true, on the basis that Jezzini, through his associates and corporate entities, lost nearly \$500,000 through civil forfeiture pursuant to a consent judgment in federal court. We simply cannot conclude, as a matter of law, that the forfeiture of \$500,000 has the same effect on the reader as a prosecution for ten counts of felony money structuring and money laundering.

4. *Adolf Has Not Established Privilege as a Matter of Law*

Adolf next relies on a statutory privilege. Civil Code section 47, subdivision (d)(1) describes as privileged, “a fair and true report in, or a communication to, a public journal, of (A) a judicial, (B) legislative, or (C) other public official proceeding, or (D) of anything said in the course thereof, . . .”⁷

A city council meeting constitutes a legislative proceeding within the purview of subdivision (d)(1). (*Green v. Cortez* (1984) 151 Cal.App.3d 1068, 1073.) The privilege is absolute and cannot be overcome by a showing of malice. (*Id.* at p. 1074.) Thus, if Adolf can establish that her statement was a “fair and true report” of the Naples City Council meeting, or anything said in the course of that meeting, she will have defeated Jezzini’s complaint as a matter of law.⁸

In determining whether a statement constitutes a “fair and true report,” courts use a similar test to the “substantial truth”

⁷ We assume without deciding that Facebook is a public journal for purposes of Civil Code section 47, subdivision (d)(1).

⁸ Because the Civil Code section 47, subdivision (d)(1) privilege applies to legislative proceedings, such as the Naples City Council, we need not address whether the statements were made in a “public meeting” under section 47, subdivision (e).

doctrine discussed above. “To be ‘ “fair and true,” ’ the report must ‘ “[capture] the substance, the ‘gist’ or ‘sting’, of the subject proceedings” ’ as measured by considering the ‘ “ ‘natural and probable effect [of the report]’ ” ’ ‘ “ ‘on the mind of the average reader.’ ” ’ [Citation.] The defendant is entitled to a certain degree of ‘flexibility/literary license’ in this regard, such that the privilege will apply even if there is a slight inaccuracy in details—one that does not lead the reader to be affected differently by the report than he or she would be by the actual truth. [Citation.]” (*Argentieri v. Zuckerberg* (2017) 8 Cal.App.5th 768, 787-788.) This is generally an issue of fact for the jury, but when there is no genuine dispute as to whether an average reader would understand the report to be fair and true, it can be resolved as a matter of law. (*Id.* at p. 791.)

In order to qualify as a privileged fair and true statement, the report must be properly attributed. That is, it must somehow “state the source of its information.” (*Hayward v. Watsonville Register-Pajaronian & Sun, supra*, 265 Cal.App.2d at p. 259; see also *Hawran v. Hixson, supra*, 209 Cal.App.4th at pp. 280-281 [a press release is not a fair and true report of a government investigation when it fails to provide any details of the investigation, only mentioning it in passing; simply containing similar information does not render it a report].)

Recent authority has suggested that such an attribution can be done by means of a hyperlink. (*Adelson v. Harris* (S.D.N.Y. 2013) 973 F.Supp.2d 467, 483-486, questions certified to Nevada Supreme Court (2d Cir. 2014) 774 F.3d 803, questions answered (Nev. 2017) 402 P.3d 665, and *affd.* (2d Cir. 2017) 876 F.3d 413.) In that case, the plaintiff alleged the defendant had defamed him in an internet petition which stated that he had

“personally approved” prostitution at his Macau casino. The defendant responded that this language was a fair and true report of a declaration filed in a breach of contract case brought by a former employee of plaintiff. The district court found that the petition “quotes from, and hyperlinks to, a news report that accurately describes and quotes from the [former employee’s] Declaration.” (*Adelson, supra*, 973 F.Supp.2d at p. 483.) Moreover, the petition used words like “reportedly,” and put quotes on the term “personally approved,” which, according to the court, “make plain that the hyperlink connects to a source suggesting [plaintiff] ‘personally approved’ prostitution in Macau.” (*Id.* at p. 483.) The court concluded that “by hyperlinking to the . . . article—which quotes from the [employee’s] Declaration—and by using the words ‘reportedly’ and ‘reports’ to signal to the reader that the hyperlink connects one to the source of the Petition’s claims, Defendants adequately ‘fulfill[ed] the function of conveying to the public information about what went on in the courthouse.’” (*Id.* at p. 486.)

Although we agree that in this age, a hyperlink may provide legally sufficient attribution, we do not believe *Adelson* is as useful to Adolf as she would like. In fact, we believe it points out exactly what is lacking in the facts of this case. Adolf suggests that her hyperlink to the exhibit submitted to the Naples City Council is sufficient attribution for a reasonable reader to understand that her statement that Jezzini was charged with the financial felonies was simply a report of the key slide within that exhibit. But Adolf’s placement of the hyperlink and her use of surrounding language do not necessarily signal that the hyperlink is the source for the statement regarding the financial felonies. Her article states, unambiguously, that

Jezzini and his family and associates “have been arrested and charged with several felony crimes” including the ten financial felonies. In a new paragraph, the article states that “John Jezzini is apparently so well known, that he and his associates were used as an example [in] the City of Naples, Florida to vote against the legalization of Marijuana and Dispensaries. See pages 193-198.” It is at this point that the hyperlink appears. A trier of fact could reasonably interpret the placement of the hyperlinked exhibit such that it only supported Adolf’s report that Jezzini and his associates “were used as an example” for Naples to vote against marijuana dispensaries, and has nothing to do with the money laundering/structuring statement that preceded it, which presents the criminal charges as historical fact.

As such, Adolf has not established as a matter of law that her statement that Jezzini had been arrested and charged with the financial felonies was, in fact, a report of the exhibit submitted to the City of Naples City Council. Her anti-SLAPP motion was appropriately denied.⁹

⁹ On appeal, Adolf argues, for the first time, that her statement regarding the money laundering and structuring charges was privileged as she was reporting “allegations . . . made by a law enforcement officer concerning the judicial proceedings against Jezzini.” In other words, Adolf omits the middleman of the Naples City Council meeting, and suggests she was simply directly reporting the assistant district attorney’s allegations concerning the criminal proceedings against Jezzini. But the criminal proceedings did not exist in 2013, when the assistant district attorney presented her PowerPoint, so Adolf’s report of any 2013 statement could not have been a report of a judicial proceeding. Nor has Adolf presented any evidence of the circumstances of that PowerPoint statement in order to clothe it

5. Conclusion

In affirming the denial of Adolf's anti-SLAPP motion, we conclude only that she has failed to establish that she is entitled to prevail as a matter of law. We do not conclude that her statement was either substantially true, or not, nor do we conclude whether it was or was not privileged.

DISPOSITION

The denial of the anti-SLAPP motion is affirmed. Jezzini is to recover his costs on appeal.

RUBIN, P. J.

WE CONCUR:

BAKER, J.

KIM, J.

with privilege – that is, we do not know whether the SOS Marijuana Summit was an official proceeding or other public meeting. (See *Lewis v. Hayes* (1913) 165 Cal. 527 [reporting a statement, by a health official, made in the context of a social event, does not constitute a privileged report of an official proceeding].)