

A senior member of the high school choir sued his music teacher for defamation based on the following facts: The director of a local choir called the teacher about the senior. The teacher, accidentally confusing the senior with another choir member with the same last name, stated that the senior was a bass. The senior was actually a tenor. The director did not contact the senior about joining the local choir because it needed more tenors, not basses.

Should the senior prevail in his lawsuit?

- A. No, because describing a person as a bass instead of a tenor is not a derogatory statement.
- B. No, because the senior cannot prove special damages in connection with the false statement.
- C. Yes, because the statement was false and the teacher was negligent in making it.
- D. Yes, because the teacher's false statement cost the senior a position in the local choir.

Explanation:

Defamation can be either libel (written statements) or **slander** (**spoken statements**—as seen here). A defamation claim based on slander requires proof of the following:

The defendant knowingly made a false statement about the plaintiff *or* negligently failed to determine its falsity.

The statement was defamatory, meaning that the **type of statement** would **tend to harm the plaintiff's reputation**.

The defendant intentionally or negligently **communicated** the statement to a third party.

The statement caused the plaintiff to suffer special damages *or* amounted to **slander per se**.

A statement is harmful to the plaintiff's reputation if it either **diminishes respect, esteem, or goodwill** toward the plaintiff or **deters others from associating** with the plaintiff—eg, had the teacher told the director that the senior had a poor work ethic. But since the teacher's statement that the senior was a bass instead of a tenor was not derogatory or harmful to his reputation in any way, the senior should not prevail in his defamation lawsuit.

(Choices B & D) Special damages require the plaintiff to prove that a third party heard the defendant's defamatory comments and acted adversely to the plaintiff. Most often, special damages involve an economic loss to the plaintiff, but they also would include such things as the director not contacting the senior about joining the local choir. In spite of this, the senior will not prevail because the teacher's statement was not defamatory.

(Choice C) The fact that the statement was false and that the teacher was negligent (ie, failed to use reasonable care) in making it is not a reason for the senior to prevail since the statement was not defamatory.

Educational objective:

A statement is defamatory if the type of statement would tend to harm the plaintiff's reputation by diminishing respect, esteem, or goodwill toward the plaintiff OR deterring others from associating with the plaintiff.

References

Restatement (Second) of Torts § 559 (Am. Law Inst. 1977) (defamatory statement defined).

Defamatory statements harmful to plaintiff's reputation

Diminishing respect, esteem, or goodwill toward plaintiff



©UWorld

Deterring others from associating or dealing with plaintiff

