

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

YOCHANAN CHRISTAKIS, *Plaintiff/Appellant*,

v.

MENACHEM DEITSCH, et al., *Defendants/Appellees*.

No. 1 CA-CV 19-0344

FILED 12-1-2020

Appeal from the Superior Court in Maricopa County

No. CV2017-008257

The Honorable Colleen L. French, Judge *Retired*

AFFIRMED IN PART, REVERSED IN PART AND REMANDED

COUNSEL

Yochanan Christakis, Mesa
Plaintiff/Appellant

Broening Oberg Woods & Wilson, PC, Phoenix
By Jessica J. Kokal, Alicyn M. Freeman
Counsel for Defendants/Appellees

OPINION

Chief Judge Peter B. Swann delivered the opinion of the court, in which Presiding Judge Samuel A. Thumma and Judge Randall M. Howe joined.

S W A N N, Chief Judge:

¶1 This is an appeal from the dismissal of an amended complaint asserting claims for false light invasion of privacy and intentional infliction of emotional distress. We hold that though the claims arose against a religious backdrop, the ecclesiastical abstention doctrine does not apply because the claims require no inquiry into religious matters. We further hold that some of the allegations sufficiently stated grounds for relief. We finally hold that the plaintiff was not required to join another party. We therefore affirm in part, reverse in part, and remand for further proceedings.

FACTS AND PROCEDURAL HISTORY

¶2 Yochanan Christakis, a member of a Jewish community in Chandler, brought claims against Menachem Deitsch, the community's Rabbi, for false light invasion of privacy and intentional infliction of emotional distress. Christakis alleged in an amended complaint that when a fellow community member accused him of grooming children for molestation, Deitsch, knowing that the accusation was false, failed to correct the accuser, aided her efforts to rally the community against Christakis, made false statements that caused Christakis to suffer severe emotional harm, and by deceit caused Christakis to engage in a public confrontation with law enforcement. Christakis expressly declined to assert any claim for defamation.

¶3 Deitsch moved to dismiss the amended complaint based on the ecclesiastical abstention doctrine, failure to state a claim under Ariz. R. Civ. P. ("Rule") 12(b)(6), and failure to join an indispensable party under Rule 19. The superior court concluded that "[f]or all of the reasons stated in [Deitsch's] motion and reply, . . . [Christakis] has not adequately pled the elements of either [of] his claims." The court ordered Deitsch to submit a proposed form of judgment, and he did so. Though Christakis had in his response asked for an opportunity to amend, the court entered an

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appealable judgment dismissing the case with prejudice. Christakis appeals.

DISCUSSION

¶4 Deitsch urges us to affirm for all the reasons set forth in his motion to dismiss. Our review is de novo. *See Coleman v. City of Mesa*, 230 Ariz. 352, 356, ¶ 8 (2012) (holding that de novo review applies to a dismissal based on failure to state a claim); *Falcone Bros. & Assocs. v. City of Tucson*, 240 Ariz. 482, 486–87, ¶¶ 5, 10 (App. 2016) (holding that de novo review applies to a dismissal based on lack of subject matter jurisdiction when the ruling does not resolve disputed jurisdictional facts).

¶5 We first address ecclesiastical abstention. Derived from the free exercise and establishment clauses of the First Amendment, ecclesiastical abstention “preclude[s] civil courts from inquiring into ecclesiastical matters,” such as matters concerning “theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required for them.” *Ad Hoc Comm. of Parishioners of Our Lady of the Sun Catholic Church v. Reiss*, 223 Ariz. 505, 510, ¶ 12 (App. 2010) (citations omitted). But religious organizations and officials remain subject to neutral tort laws. *See Rashedi v. Gen. Bd. of Church of the Nazarene*, 203 Ariz. 320, 324, ¶ 16 (App. 2002). Accordingly, “when a church-related dispute can be resolved by applying neutral principles of law without inquiry into religious doctrine and without resolving a religious controversy, the civil courts may adjudicate the dispute.” *Id.* at ¶ 15. So long as the court need not “resolve underlying controversies over religious doctrine and practice in order to decide the case,” the court “may entertain disputes within religious organizations even if some ecclesiastical matters are incidentally involved.” *Dobrota v. Free Serbian Orthodox Church St. Nicholas*, 191 Ariz. 120, 126, ¶ 22 (App. 1998).

¶6 Christakis’s claims were based in part on a December 2015 letter that Deitsch sent to him, the religious community’s attorney, and the local police chief. In the letter, Deitsch barred Christakis from attending “any event sponsored by Chabad of the East Valley or Cheder Lubavitch Arizona.” Deitsch’s expulsion of Christakis from the religious community was an ecclesiastical matter. But Christakis’s amended complaint asked only for monetary damages related to false light invasion of privacy and intentional infliction of emotional distress—he did not seek reinstatement in the community. Though his claims arose against a religious backdrop,

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they were substantively neutral tort claims not implicating ecclesiastical abstention.

¶7 We next address whether Christakis failed to state claims under Rule 12(b)(6). We look to the amended complaint and the well-pled factual allegations therein, assuming those allegations' truth and all reasonable inferences therefrom. *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419, ¶ 7 (2008).

¶8 Christakis's first claim was for false light invasion of privacy. "False light invasion of privacy . . . protects against the conduct of knowingly or *recklessly* publishing false information or innuendo that a 'reasonable person' would find 'highly offensive.'" *Godbehere v. Phx. Newspapers, Inc.*, 162 Ariz. 335, 340 (1989). The publication must be "to the public at large, or to so many persons that the matter must be regarded substantially certain to become one of public knowledge." *Hart v. Seven Resorts Inc.*, 190 Ariz. 272, 280 (App. 1997) (emphasis omitted) (citation omitted).

¶9 Christakis's false light claim was specifically premised on Deutsch's December 2015 letter. In the letter, Deutsch accused Christakis of "demonstrating an explosive temper on a repeated basis" and engaging in "public outbursts, publicly embarrassing members of the community, showing up at the homes of community members without invitation, acting in a volatile way, refusing to leave the premises of various people when requested, and other sensitive allegations of which you are aware." Even assuming that the letter would be highly offensive to a reasonable person, Deutsch transmitted the letter only to Christakis and two other individuals. Such limited publication was insufficient for purposes of a false light claim. Further, Deutsch's later attachment of the letter to a publicly recorded petition for an injunction against harassment did not create a cause of action. A party to a judicial proceeding holds an absolute privilege, applicable to false light claims, regarding statements filed in court that relate to, bear on, or otherwise are connected to the proceeding. *Green Acres Tr. v. London*, 141 Ariz. 609, 613 (1984); *Yeung v. Maric*, 224 Ariz. 499, 502, ¶ 14 (App. 2010). We therefore conclude that the superior court correctly concluded that the allegations based on the letter were insufficient to state a claim for false light invasion of privacy.

¶10 Christakis's second claim was for intentional infliction of emotional distress. Intentional infliction of emotional distress requires that the defendant engage in "'extreme' and 'outrageous'" conduct; that he or she "either intend to cause emotional distress or recklessly disregard the

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near certainty that such distress will result from [the] conduct”; and that “severe emotional distress . . . indeed occur.” *Ford v. Revlon, Inc.*, 153 Ariz. 38, 43 (1987). Extreme and outrageous conduct is conduct “so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized community.” *Cluff v. Farmers Ins. Exch.*, 10 Ariz. App. 560, 562 (App. 1969) (citation omitted), *overruled on other grounds by Godbehere*, 162 Ariz. 335. Such conduct “must completely violate human dignity” and “strike to the very core of one’s being, threatening to shatter the frame upon which one’s emotional fabric is hung.” *Pankratz v. Willis*, 155 Ariz. 8, 15 (App. 1987) (citation omitted). It does not include “mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities.” *Duhammel v. Star*, 133 Ariz. 558, 561 (App. 1982) (citation omitted), *overruled on other grounds by Godbehere*, 162 Ariz. 335. “The trial court determines whether the acts at issue are sufficiently outrageous to state a claim for relief; however, if reasonable minds could differ about whether the conduct is sufficiently outrageous, the issue should be decided by a jury.” *Johnson v. McDonald*, 197 Ariz. 155, 160, ¶ 23 (App. 1999).

¶11 Christakis alleged that Deitsch “lied to [other] community members about [him],” “[t]hrough instilling fear . . . lied about [him] and about the situation in order to get permission to include the names of these innocent people in the letter,” “approached others in the community to put their names on the letter [and] attempted to put fear in these other people also,” and, along with another man, “had viciously slandered him in the community. They had gone around the community and told members that a pedophile in the community was grooming children in order to molest them.” To be sure, Christakis neither specifically identified the content of Deitsch’s alleged lies nor directly alleged that Deitsch identified him as the pedophile. But reading the allegations together, we reasonably infer (and therefore must assume) that Deitsch spread a lie that Christakis was a pedophile. Though the standard for extreme and outrageous conduct is high, the allegations were sufficient to preclude dismissal. *Cf. Bierman v. Weier*, 826 N.W.2d 436, 440, 466–67 (Iowa 2013) (finding triable issue of fact regarding outrageousness of defendant’s statements accusing ex-wife’s father of molesting her and causing her mental illness). Further, the pleading sufficiently alleged that Deitsch acted intentionally and that Christakis suffered severe emotional distress, including suicidal ideation.

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The superior court therefore erred by dismissing Christakis's intentional infliction of emotional distress claim.¹

¶12 We reject Deitsch's contention that the pleading was subject to dismissal under Rule 19. Deitsch argues that Christakis's actual claim against him was for aiding and abetting the original accuser, so Christakis had to join that individual but could not and did not do so. But the above-quoted allegations indicate that, though the woman's accusations may have inspired Deitsch's conduct, his behavior was independently actionable.

CONCLUSION

¶13 We affirm the dismissal of the amended complaint's claim for false light invasion of privacy as set forth in the first count. We reverse and remand for further proceedings with respect to the amended complaint's second count.



AMY M. WOOD • Clerk of the Court
FILED: AA

¹ The allegations organized under the intentional infliction of emotional distress count also were sufficient to state a claim for false light – a reasonable person would find accusations of pedophilia highly offensive, and Deitsch publicized the accusations in the community.