

Case Brief

New York Times Co. v. Sullivan, 376 U.S. 967, 84 S. Ct. 1130, 12 L. Ed. 2d 83 (1964)

Brief Fact Summary. The Alabama Supreme Court of upheld a judgment awarding the Respondent, L.B. Sullivan (Respondent), damages in a civil libel action. The Petitioner, the New York Times (Petitioner), appealed.

Synopsis of Rule of Law. Constitutional guarantees require a federal rule that prohibits a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with actual malice – that is, with knowledge that it was false or with reckless disregard of whether it was false or not.

Facts. The Petitioner newspaper published a full-page ad that alleged the Rev. Martin Luther King, Jr.'s (King) arrest for perjury in Alabama was part of a campaign to destroy King's efforts to integrate public facilities and encourage blacks to vote. The Respondent, the Montgomery city commissioner, filed a libel action against the newspaper and four black ministers who were listed as endorsers of the advertisement. The Respondent claimed that the allegations against the Montgomery police defamed him personally. The advertisement included statements, some of which were false, about police action allegedly directed against students who participated in a civil rights demonstration and against a leader of the civil rights movement. The Respondent claimed the statements referred to him because his duties included supervision of the police department. Under Alabama law, the Respondent did not have to prove that he had been harmed. Also, a defense claiming that the advertisement was truthful was unavailable since the advertisement contained factual errors. The jury found for the Respondent, awarding a \$500,000 judgment. The State Supreme Court affirmed.

Issue. Did Alabama's libel law, by not requiring the Respondent to prove that the speech in question was motivated by actual malice, unconstitutionally infringe on the First Amendment's freedom of speech and freedom of press protections?

Held. Yes. The court ruled that the First Amendment of the United States Constitution (Constitution) protects the publication of all statements, even false ones, about the conduct of public officials except when statements are made with actual malice (with knowledge that they are false or in reckless disregard to truth or falsity). Specifically, the rule of law applied by the Alabama courts was constitutionally deficient for failure to provide the Petitioner the safeguards for freedom of speech and of the press that were guaranteed by the First and Fourteenth Amendments of the Constitution in a libel action brought by a public official against critics of his official conduct.

Concurrence. * Interestingly, Justices Arthur Goldberg (J. Goldberg) and Hugo Black (J. Black) (with whom Justice William Douglas (J. Douglas) joined in concurrence) did not feel that the new standard afforded sufficient protection. As J. Black, taking issue with the malice

Case Brief

requirement stated, “‘Malice,’ even as defined by the Court, is an elusive, abstract concept, hard to prove and hard to disprove. The requirement that malice be proved provides at best an evanescent protection for the right critically to discuss public affairs and certainly does not measure up to the sturdy safeguard embodied in the First Amendment.” J. Black would, in fact grant the press “absolute immunity for criticism of the way public officials do their public duty.” This is a point of utmost concern for J. Black, as he asserted, “To punish the exercise of this right to discuss public affairs or to penalize it through libel judgments is to abridge or shut off discussion of the very kind most needed. This Nation, I suspect, can live in peace without libel suits based on public discussions of public affairs and public officials. But I doubt that a country can live in freedom where its people can be made to suffer physically or financially for criticizing their government, its actions, or its officials.”

* J. Goldberg, echoing J. Black, states flatly, “In my view, the First and Fourteenth Amendments to the Constitution afford to the citizen and to the press an absolute, unconditional privilege to criticize official conduct despite the harm which may flow from excesses and abuses.” J. Goldberg would dispense with any litmus test connected with the mindset of those exercising free speech: “The right should not depend upon a probing by the jury of the motivation of the citizen or press.” Ominously, J. Goldberg warns, “If liability can attach to political criticism because it damages the reputation of a public official as a public official, then no critical citizen can safely utter anything but faint praise about the government or its officials. The vigorous criticism by press and citizen of the conduct of the government of the day by the officials of the day will soon yield to silence if officials in control of government agencies, instead of answering criticisms, can resort to friendly juries to forestall criticism of their official conduct.”

Discussion. In its landmark ruling in *Sullivan*, the United States Supreme Court (Supreme Court) uses the case as an opportunity to examine the parameters of free speech and First and Fourteenth Amendment protections. Until *Sullivan*, defamation law was entirely defined by the law of the states with no constraints imposed by the Constitution. Since *Sullivan* defamation law has been “constitutionalized” with the Supreme Court expanding and refining the boundaries of free speech.

At immediate issue in *Sullivan* was the question of libel, and the court noted, “Like insurrection, contempt, advocacy of unlawful acts, breach of the peace, obscenity, solicitation of legal business, and the various other formulae for the repression of expression that have been challenged in the Supreme Court, libel can claim no talismanic immunity from constitutional limitations.” The court flatly concludes, “The Constitution does not protect libelous publications.” There was thus a requirement to explore more fully what constitutes libel. The Supreme Court quickly dispenses with the primary defense, “Authoritative interpretations of the First Amendment guarantees have consistently refused to recognize an exception for any test of truth — whether administered by judges, juries, or administrative officials — and especially one that puts the burden of proving truth on the speaker.” Such a test would create liability simply on the basis of error, as the Supreme Court explained, “Erroneous statement is inevitable in free

Case Brief

debate, and it must be protected if the freedoms of expression are to have the breathing space that they need to survive.”

Nevertheless, another important distinction had to be drawn in *Sullivan* in that the Respondent was a public official. Thus the delineation between the rights of a public figure and those of a private citizen needed to be drawn. With regard to the former, the court chose to adopt a standard of “actual malice”, and explained, “Constitutional guarantees require a federal rule that prohibits a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with actual malice – that is, with knowledge that it was false or with reckless disregard of whether it was false or not.” Reinforcing the point, the court states, “Any one claiming to be defamed by a communication must show actual malice or go remediless. This privilege extends to a great variety of subjects, and includes matters of public concern, public men, and candidates for office.” The court’s rationale was that no less than the citizenry’s right to criticize government was at stake: “The Constitution delimits a state’s power to award damages for libel in actions brought by public officials against critics of their official conduct.” Thus, under the new Federal standard, the evidence presented in *Sullivan* was constitutionally insufficient to support the judgment for the Respondent, since it failed to support a finding that the statements were made with actual malice or that they related to him.

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