



HIGH COURT OF AUSTRALIA

5 December 2012

TONY PAPACONSTUNTINOS v PETER HOLMES A COURT [2012] HCA 53

Today a majority of the High Court dismissed an appeal brought by the appellant, Mr Tony Papaconstuntinos, against a finding that the respondent, Mr Peter Holmes à Court, had successfully made out a defence to a defamation claim brought against him by the appellant. The defamation claim arose out of events surrounding a proposal put forward by the respondent in 2005, according to which he and Mr Russell Crowe would inject \$3 million into the South Sydney District Rugby League Football Club ("the Club") in exchange for a controlling interest in its management. The proposal was to be put to a vote of the Club's members at a general meeting. The appellant, a board member of the Club, was firmly opposed to the proposal. Two days prior to the scheduled meeting, the respondent sent a letter to the appellant's employer making certain allegations about the appellant.

At a trial in the Supreme Court of New South Wales, it was found that the letter conveyed three imputations that were defamatory of the appellant. The respondent pleaded the common law defence of qualified privilege. The trial judge rejected that defence on the basis that the respondent lacked a sufficient interest in making the statements complained of. The respondent successfully appealed to the Court of Appeal of the Supreme Court of New South Wales.

In his appeal to the High Court, the appellant submitted that the respondent could only make out the defence of qualified privilege if he could show that there had been a "pressing need" for him to make the statements. The requirement of "pressing need" was said to arise from the fact that the respondent's statements were made voluntarily and in the protection of interests that were purely personal. The High Court, by majority, rejected that contention. The defence of qualified privilege requires the maker of a defamatory statement to demonstrate reciprocity of duty and interest: that the maker had a duty to make, or an interest in making, the statement and that the recipient of the statement had a duty to hear, or an interest in hearing, that statement. There is no superadded requirement of "pressing need" that arises in circumstances where a defamatory statement was made voluntarily and to protect personal interests. The appeal was dismissed with costs.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*