

No. 1-11-1833

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

SHARYL BARNES,)	Appeal from
Plaintiff-Appellee,)	the Circuit Court
v.)	of Cook County
JOSE EDUARDO MONARREZ,)	No. 09 L 593
Defendant-Appellant.)	Honorable
)	Clare Elizabeth McWilliams,
)	Judge Presiding.

JUSTICE PALMER delivered the judgment of the court.
Presiding Justice Gordon and Justice Lampkin concurred in the judgment.

ORDER

¶ 1 **Held:** Trial court's judgment in favor of plaintiff for intentional infliction of emotional distress is affirmed over defendant's contention that the evidence was insufficient to support the court's finding that he intended to cause plaintiff emotional distress or that plaintiff actually suffered emotional distress.

¶ 2 Plaintiff Sharyl Barnes brought this action against defendant Jose Eduardo Monarrez for violation of the Illinois hate crime statute (720 ILCS 5/12-7.1(a) (West 2008)) and intentional

1-11-1833

infliction of emotional distress based on defendant's creation of a fake MySpace web page under plaintiff's name. After a bench trial, the court found in favor of defendant on the hate crime count and in favor of plaintiff on the claim for intentional infliction of emotional distress. The court awarded plaintiff compensatory damages of \$7,500 plus costs. Defendant appeals, challenging the sufficiency of the evidence to support the court's finding of intentional infliction of emotional distress. We affirm.

¶ 3 Plaintiff is a teacher at Curie High School in Chicago, Illinois. In January and February 2007, she was the coordinator of the International Baccalaureate (IB) program at the school. At that time, defendant was a sophomore enrolled in the IB program. Defendant testified that he did not like plaintiff because she was "mean" and "talked down" to the students enrolled in the IB program. On January 30, 2007, defendant created a MySpace web page purporting to belong to plaintiff on the social networking website MySpace. Defendant named the web page "Ms. Barnes to you n***" and uploaded plaintiff's yearbook picture to the web page. On the web page, defendant described plaintiff as a "single white a*** woman" and "lazy b***." He also included crude sexual innuendos and racial slurs along with vulgar humor and distasteful language. After creating the web page, defendant sent an electronic link to the page to a few of his friends in the IB program who he knew also disliked plaintiff.

¶ 4 On the following day, defendant heard students' reaction to the web page. Defendant testified that six or seven students mentioned the web page to him and told him it was funny. Defendant said that other students in the school were talking about the web page and that word of the page had spread "further than the group [he] originally intended" to see it. When defendant

1-11-1833

arrived home from school that day, he removed the page from the website. Defendant testified that he intended the page to be a parody and that he hoped his friends in the IB program would find it funny. He said that he did not intend or expect that readers of the web page would believe plaintiff had created it. Defendant also said that he did not intend for plaintiff to learn of the web page. Defendant further said he had no reason to harm plaintiff.

¶ 5 A few days after he removed the web page from the website, defendant learned that plaintiff had heard about the web page and that school authorities were trying to determine who had created it. Defendant told his English teacher that he was responsible for the web page. Defendant apologized to plaintiff and told her that he had intended the page to be a joke. Defendant testified he made the admission because he wanted "to make sure that no one else got in trouble for [his actions]." Defendant transferred to another high school soon after the incident.

¶ 6 Plaintiff testified that she learned of the web page on the day after it was created because a student in her IB program told her about it. Because plaintiff was unable to access the MySpace website from the computers at the school, she called her sister and asked her to look at the web page. Plaintiff testified that when her sister described the contents of the page to her, she "was panicked" and her heart started beating faster. Plaintiff said that she was afraid of losing her job and of other students making fun of her. She also said that she was afraid of "some student reading [the web page] *** thinking that [she] did it and taking it out on [her]." Plaintiff further said that she was afraid of how parents would react. Plaintiff finally said that she was afraid that an African American student at the school would read the web page, think that plaintiff wrote it and resort to violence. As a result of her fear, plaintiff walked with another

1-11-1833

person to her car at the end of the school day for the remainder of the school year.

¶ 7 On cross-examination, plaintiff acknowledged that the school's parking lot is not a safe place and that a student was stabbed there. She also acknowledged that other than walking with another person to her car, she did not alter her life in any other way because of defendant's actions. Plaintiff further acknowledged that she did not seek medical treatment or counseling and did not miss work as a result of the incident. Plaintiff said she dealt with the situation by "keeping busy" and interacting with family and friends.

¶ 8 In a written order, the trial court noted that it had the opportunity to observe and assess the credibility of both parties and that defendant was "smug, nonchalant and cavalier" during his testimony, while plaintiff was "honest, direct and exhibited a strong desire to report with accuracy the substance of her claims." The court rejected defendant's testimony that he intended the web page to be a joke and found his actions were "contrived, deliberate" and intended to harm plaintiff. The court also found that defendant's testimony demonstrated that he despised plaintiff and wanted to show it. The court further found that plaintiff testified convincingly that she experienced a life-changing negative event as a result of defendant's actions. Specifically, "plaintiff had experienced highly damaging mental reactions, including fright, anguish, humiliation, embarrassment, anger, disappointment, stress, and worry." Based on this evidence, the court concluded that defendant's actions were not a violation of the hate crime statute because he was not specifically motivated by a hatred of plaintiff's race or sexual orientation as required by the statute. However, the court found that plaintiff met her burden as to the count of intentional infliction of emotional distress. The court noted that: defendant's conduct was

extreme and outrageous; he intended it to be extreme and outrageous; he knew that it would cause harm to plaintiff; and plaintiff presented ample evidence regarding her emotional distress. The court entered judgment in favor of plaintiff in the amount of \$7,500 plus costs. Defendant appeals.

¶ 9 On appeal, defendant challenges the sufficiency of the evidence to support the court's finding of intentional infliction of emotional distress. To state a cause of action for intentional infliction of emotional distress, a plaintiff must show that: (1) the defendant's conduct was extreme and outrageous; (2) the defendant either intended to inflict severe emotional distress or knew that there was at least a high probability that his actions would cause severe emotional distress; and (3) the defendant's conduct actually caused severe emotional distress. *Feltmeier v. Feltmeier*, 207 Ill. 2d 263, 268-69 (2003). We will not reverse a trial court's factual determinations unless they are against the manifest weight of the evidence. *Hoxha v. LaSalle National Bank*, 365 Ill. App. 3d 80, 84 (2006).

¶ 10 Here, defendant does not challenge the court's finding that his conduct was extreme and outrageous. Rather, he claims that the evidence presented was insufficient to show that he intended to inflict emotional distress on plaintiff or knew that there was a high probability that his actions were likely to do so. He also claims that the evidence presented was insufficient to support the court's finding that plaintiff actually suffered emotional distress.

¶ 11 After reviewing the record, we cannot say the trial court's ruling was against the manifest weight of the evidence. Although defendant testified that he intended the web page to be a "joke," the court found that defendant's actions were deliberate and that he intended to damage

1-11-1833

plaintiff. The court's conclusion is supported by the record that shows defendant acknowledged he did not like plaintiff because she was mean and "talked down" to students enrolled in the IB program. Defendant used plaintiff's picture and name on the web page. Defendant described plaintiff in the web page as a "single white a*** woman" and "lazy b***." He also included crude sexual innuendos and racial slurs along with vulgar humor and distasteful language. After creating the web page, defendant sent an electronic link to the page to a few of his friends in the IB program who he knew also disliked plaintiff. Defendant did not advise those friends not to forward the page to other persons nor did he employ electronic safeguards to prevent the page from being viewed by others. As a matter of fact, the page was readily accessible by anyone with access to MySpace, including plaintiff's sister. Defendant's claim that he did not know the page would spread further than the group to which he originally forwarded the page was therefore unreasonable. Given the content and nature of the web page, the court's finding that defendant intended to harm plaintiff was not against the manifest weight of the evidence.

¶ 12 We likewise cannot say the court erred in finding that defendant's actions caused severe emotional distress to plaintiff. Plaintiff testified that after she learned of the contents of the web page her heart started to beat fast and she felt panicked. Plaintiff said she was afraid of losing her job and of the potential retaliation from other students who may have mistakenly believed that she had created the web page. Plaintiff also said that she was afraid of how parents would react. Plaintiff further said that she was afraid that an African American student at the school would read the web page, think that plaintiff wrote it and resort to violence. As a result of her fear, plaintiff walked with another person to her car at the end of the school day for the remainder of

1-11-1833

the school year. Given this record, the trial court's finding that defendant's actions caused plaintiff to suffer severe emotional distress was not against the manifest weight of the evidence.

¶ 13 For the reasons stated, we affirm the judgment of the trial court.

¶ 14 Affirmed.